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COAST GUARD AUTHORIZATION ACT OF 1989

SEPTEMBER 6, 1989.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. JONES of North Carolina, from the Committee on Merchant Marine and Fisheries, submitted the following

1008-C;
1008-D

REPORT

[To accompany H.R. 2459]

Y1.1/8:101-227.

[Including cost estimate of the Congressional Budget Office]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 2459) to authorize appropriations for the Coast Guard for fiscal year 1990, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1989".

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATION OF FUNDS FOR FISCAL YEAR 1990.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1990, as follows:

(1) OPERATION AND MAINTENANCE.—For the operation and maintenance of the Coast Guard, $2,285,200,000. Of amounts appropriated under the authority of this paragraph in excess of $2,242,200,000, an amount equal to not more than $39,600,000 shall be used to increase by not more than 1,100 the number of active duty personnel.

(2) ACQUISITION AND CONSTRUCTION.—For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including related equipment, $645,050,000, to remain available until expended. Amounts appropriated under the authority of this paragraph in excess of $438,300,000 shall be used as follows:

(A) $151,000,000 shall be used to procure at least 20 high-speed patrol vessels not later than 6 months after the date of the enactment of this Act.

(B) $24,000,000 shall be used to mount an Airborne Early Warning radar on a C-130 aircraft.

(C) $20,000,000 shall be used to rehabilitate the Coast Guard Cutter Mackinaw.

9/21

(D) $10,000,000 shall be used to acquire 12 modified AN/SQQ-T1 antisubmarine warfare trainers for the Coast Guard's 378-foot cutters.

(E) Not more than $1,000,000 shall be used to continue the procurement of a polar-class ice-breaker.

(F) $750,000 shall be used to procure not more than 6 rigid-hulled inflatable, jet-propelled emergency rescue boats suitable for carrying out search and rescue missions in shallow waters. The acquisition of the boats authorized by this subparagraph is not subject to section 665 of title 14, United States Code, unless otherwise available in accordance with that section.

(3) RESEARCH AND DEVELOPMENT.—For research, development, test, and evaluation, $24,000,000, to remain available until expended, of which $5,000,000 shall be used to examine, investigate, and develop improved methods and techniques for the prevention and mitigation of oil and hazardous material spills on the navigable waters of the United States, including arctic waters.

(4) RETIREMENT BENEFITS.—For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Servicemen's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under the Dependents' Medical Care Act, $420,800,000, to remain available until expended.

(5) ALTERATION OR REMOVAL OF BRIDGES.—For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, $2,300,000 for fiscal year 1990.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING FOR FISCAL YEAR 1990.

(a) ACTIVE DUTY PERSONNEL.—As of September 30, 1990, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,299. This authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) STUDENT LOADS.—For fiscal year 1990, the Coast Guard is authorized average military training student loads as follows:

(1) RECRUIT AND SPECIAL TRAINING.—For recruit and special training, 2,757 student years.

(2) FLIGHT TRAINING.—For flight training, 110 student years.

(3) PROFESSIONAL TRAINING.—For professional training in military and civilian institutions, 390 student years.

(4) OFFICER ACQUISITION.—For officer acquisition, 900 student years.

SEC. 103. ACQUISITION OF ADDITIONAL ICEBREAKERS.

(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating may acquire additional icebreakers by either—

(1) entering into a multiyear lease for the purpose of acquiring those icebreakers under a bareboat charter, for a term not to exceed 30 years; or

(2) direct purchase.

(b) DETERMINATION OF METHOD AND TERMS.—The Secretary of the department in which the Coast Guard is operating shall—

(1) determine which method described in subsection (a) for acquiring additional icebreakers is in the best interest of the United States;

(2) determine the appropriate terms and conditions of any agreement to acquire icebreakers under this section; and

(3) ensure that any vessel acquired under subsection (a) meets the requirements under section 665 of title 14, United States Code, for a vessel to be constructed for the Coast Guard.

SEC. 104. MODIFICATION AND EXTENSION OF RULES OF ROAD ADVISORY COUNCIL AND EXTENSION OF TOWING SAFETY ADVISORY COMMITTEE.

(a) RULES OF THE ROAD ADVISORY COUNCIL.—

(1) MODIFICATION AND EXTENSION.—Section 5 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended as follows:

(A) Subsection (a) is amended by striking "Rules of the Road Advisory Council" and inserting "Navigation Safety Advisory Council".

(B) Subsection (b) is amended to read as follows:

"(b) The Council shall advise, consult with, and make recommendations to the Secretary on matters relating to the prevention of collisions, rammings, and groundings, including the Inland Rules of the Road, the International Rules of the Road, navigation regulations and equipment, routing measures, marine information, diving safety, and aids to navigation systems. Any advice or recommendation made

by the Council to the Secretary shall reflect the independent judgment of the Council on the matter concerned. The Council shall meet at the call of the Secretary, but in any event not less than twice during each calendar year. All proceedings of the Council shall be public, and a record of the proceedings shall be made available for public inspection.".

(C) Subsection (d) is amended by striking "September 30, 1990" and inserting "September 30, 1995".

(2) REFERENCES.—Each reference to the Rules of the Road Advisory Council in a law, regulation, order, document, record, or paper of the United States is deemed to be a reference to the Navigation Safety Advisory Council.

(b) TOWING SAFETY COMMITTEE.—Subsection (e) of the Act entitled "An Act to establish a Towing Safety Advisory Committee in the Department of Transportation", approved October 6, 1980 (33 U.S.C. 1231a(e)), is amended by striking "September 30, 1990" and inserting "September 30, 1995".

SEC. 105. COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE APPOINTMENTS.

Section 4508 of title 46, United States Code, is amended by adding at the end of subsection (b)(2) the following: "The Secretary may not seek, nor take into account, information concerning the political affiliation of individuals considered for appointment to the Committee."

TITLE II—PROGRAMS

SEC. 201. TECHNICAL AMENDMENTS TO ACT TO PREVENT POLLUTION FROM SHIPS.

The Act to Prevent Pollution from Ships (33 U.S.C. 1901–1912) is amended—

(1) in section 6(c)(1), by striking "Annex V" and inserting "Annex I and Annex II";

(2) in section 8(c)(1), by inserting "or of this Act" after "Convention"; and

(3) in section 8(e)(2), by inserting "or of this Act" after "MARPOL Protocol."

SEC. 202. TECHNICAL CORRECTIONS RELATING TO SAFEGUARDING MILITARY WHISTLEBLOWERS.

Section 1034 of title 10, United States Code, is amended—

(1) in subsection (c)(1), by inserting "when the Coast Guard is not operating as a service in the Navy" immediately after "in the case of a member of the Coast Guard";

(2) in subsection (c)(5), by inserting "(or to the Secretary of Transportation in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy and to that member)" immediately after "to the Secretary of Defense";

(3) in subsection (c)(6), by inserting "(or to the Secretary of Transportation in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy and to that member)" immediately after "to the Secretary of Defense"; and

(4) in the first sentence of subsection (e), by inserting "(except for a member or former member of the Coast Guard when the Coast Guard is not operating as a service in the Navy)" immediately after "former member of the armed forces".

SEC. 203. MISCELLANEOUS PROVISIONS CONCERNING CONTINUITY OF GRADE, APPOINTMENT, AND RETIREMENT OF COAST GUARD PERSONNEL.

Title 14, United States Code, is amended—

(1) in section 52, by inserting "or admiral" immediately after "to another position as a vice admiral";

(2) in section 271(e), by inserting at the end of the first sentence ", except that appointments under this section in the grade of lieutenant (junior grade) or lieutenant shall be made by the President alone" immediately after "consent of the Senate";

(3) in section 289(c), by striking "no less than 75 percent" and inserting "no less than 50 percent"; and

(4) in section 736(c), by adding at the end the following new sentence: "However, the Secretary may adjust the date of appointment—

"(1) if a delay in the finding required under section 734(a) of this title is beyond the control of the officer and the officer is otherwise qualified for promotion; or

"(2) for any other reason that equity requires."

(5) in section 741(a), by inserting "who have 18 years or more of service for retirement and are" after "in an active status".

SEC. 204. AUTHORIZATION OF JUNIOR RESERVE OFFICERS TRAINING PROGRAM PILOT PROGRAM.

(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating (hereinafter in this section referred to as the "Secretary") may carry out a pilot program to establish and maintain a junior reserve officers training program in cooperation with the Dade County Public School System of Dade County, Florida, as part of the Maritime and Science Technology Academy established by that school system (hereinafter in this section referred to as the "Academy").

(b) PROGRAM REQUIREMENTS.—A pilot program carried out by the Secretary under this section—

(1) shall be known as the "Claude Pepper, Junior Reserve Officers Training Program"; and

(2) shall provide to students at the Academy—

(A) instruction in subject areas relating to operations of the Coast Guard; and

(B) training in skills which are useful and appropriate for a career in the Coast Guard.

(c) PROVISION OF ADDITIONAL SUPPORT.—To carry out a pilot program under this section, the Secretary may provide to the academy—

(1) assistance in course development, instruction, and other support activities;

(2) commissioned, warrant, and petty officers of the Coast Guard to serve as administrators and instructors; and

(3) necessary and appropriate course materials, equipment, and uniforms.

(d) EMPLOYMENT OF RETIRED COAST GUARD PERSONNEL.—

(1) IN GENERAL.—Subject to paragraph (2) of this subsection, the Secretary may authorize the Academy to employ as administrators and instructors for the pilot program retired Coast Guard and Coast Guard Reserve commissioned, warrant, and petty officers who request that employment and who are approved by the Secretary and the Academy.

(2) EMPLOYMENT CONDITIONS.—(A) The Academy shall pay to each individual employed by the Academy under this subsection, as compensation for that employment, an amount equal to the difference between—

(i) the amount the individual would be paid as pay and allowance if they were considered to have been ordered to active duty during that period of employment; and

(ii) the amount of retired pay the individual is entitled to receive during that period.

(B) The Secretary shall pay to the Academy an amount equal to one half of the amount described in subparagraph (A) of this paragraph, from funds appropriated for that purpose.

(C) Notwithstanding any other law, while employed under this subsection, an individual is not considered to be on active duty or inactive duty training.

SEC. 205. LIMITATIONS ON CONTRACTING OF COAST GUARD SERVICES.

Notwithstanding any other provision of law, an officer or employee of the United States may not enter into any contract for procurement of performance of any function being performed by Coast Guard personnel as of January 1, 1989, before—

(1) a study has been performed by the Secretary of Transportation under the Office of Management and Budget Circular A-76 with respect to that procurement;

(2) the Secretary of Transportation has performed a study, in addition to the study required by paragraph (1) of this subsection, to determine the impact of that procurement on the multimission capabilities of the Coast Gaurd; and

(3) copies of the studies required by paragraphs (1) and (2) of this subsection are submitted to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 206. LOCAL HIRE.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 666. Local hire

"(a) Notwithstanding any other law, each contract awarded by the Coast Guard for construction or services to be performed in whole or in part in a State that has an unemployment rate in excess of the national average rate of unemployment (as determined by the Secretary of Labor) shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in that State, individuals who are local residents and who, in the case of any craft or trade,

possess or would be able to acquire promptly the necessary skills. The Secretary of Transportation may waive the requirements of this subsection in the interest of national security or economic efficiency.

"(b) LOCAL RESIDENT DEFINED.—As used in this section, 'local resident' means a resident of, or an individual who commutes daily to, a State described in subsection (a).".

(b) CLERICAL AMENDMENT.—The analysis for chapter 17 of title 14, United States Code, is amended by adding at the end the following:

"666. Local hire.".

SEC. 207. REPORT ON CONTROL OF EXOTIC SPECIES.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall submit to the Congress a report on the options available to control the infestation of the waters of the United States, including the Great Lakes, by exotic species from the ballast water of vessels operating on the waters of the United States. In preparing this report, the Secretary shall consult with the Secretary of the Interior, the Secretary of Commerce, the Great Lakes Fishery Commission, and other appropriate parties.

(b) EXOTIC SPECIES DEFINED.—In this section "exotic species" means nonnative fish, mollusks, crustaceans, zooplankton, and other aquatic organisms, other than sea lampreys.

SEC. 208. COST OF SECURITY AT KENNEBUNKPORT, MAINE.

No later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall—

(1) submit a report to the Congress that identifies costs incurred by the Coast Guard in providing security at Kennebunkport, Maine; and

(2) seek reimbursement of those costs from the Secretary of the Treasury.

SEC. 209. VESSEL TRAFFIC SERVICE RESTORATION; EXPANSION STUDY.

(a) RESTORATION.—The Secretary of the department in which the Coast Guard is operating shall establish a vessel traffic service in the New York Harbor area and on the Lower Mississippi River in New Orleans, and shall require vessels that operate in those areas to participate in the service under authority contained in title I of the Ports and Waterway Safety Act of 1972 (P.L. 92-340, 86 Stat. 424).

(b) EXPANSION STUDY.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit a report to the Congress that identifies—

(1) those United States ports and coastal channels through which large quantities of oil or hazardous cargoes are transported; and

(2) the costs to the United States of establishing adequate vessel traffic services in those ports and coastal channels.

SEC. 210. LAW ENFORCEMENT SURVEILLANCE.

Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall—

(1) submit a report to the Congress that identifies—

(A) the needs for outfitting existing Coast Guard aircraft with surveillance and reconnaissance equipment to assist in the conduct of law enforcement activities; and

(B) the cost of that equipment; and

(2) in cooperation with the Secretary of Defense, establish and submit to the Congress a plan for closing existing gaps in radar coverage along the coastline of the United States on the Gulf of Mexico and the coastline of the southeastern United States on the Atlantic Ocean.

SEC. 211. NUMBERING OF VESSELS.

Section 2101 of title 46, United States Code, is amended by inserting after paragraph (17) the following:

"(17a) numbered vessel means a vessel for which a number has been issued under chapter 123 of this title.".

SEC. 212. CONSTRUCTIVE SEIZURE PROCEDURES.

Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation and the Secretary of the Treasury, in order to avoid the devastating economic effects on innocent owners of seizures of their vessels, shall develop a procedure for constructive seizure of vessels engaged solely in coastwise trade which are suspected of being used for committing violations of law involving controlled substances.

SEC. 213. STUDY EVALUATING DOUBLE HULLS AND DOUBLE BOTTOMS.

(a) STUDY AND REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall transmit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate a report—

(1) evaluating the relative worldwide operating and environmental safety records of tankers equipped with double hulls or double bottoms and those without these features;

(2) evaluating the relative operating and environmental safety records of barges operating on the navigable waters of the United States and equipped with double hulls or double bottoms and those without those features; and

(3) assessing the costs and benefits to owners and operators of tankers and barges of requiring double hulls or double bottoms on some or all new tankers or barges constructed for operation on the navigable waters of the United States.

(b) STUDY REQUIREMENTS.—In preparing a report under this section the Secretary shall—

(1) consult with the American Bureau of Shipping, the American Institute of Merchant Shipping, the National Ocean Industries Association, the Oceanic Society, and any others the Secretary deems appropriate;

(2) review and incorporate the results of past studies conducted by the Coast Guard, the Office of Technology Assessment, and other respected organizations;

(3) pay special attention to the need to prevent serious oil pollution incidents in bays, sounds, harbors, and other nearshore areas of special environmental importance; and

(4) consider separately the costs and benefits to owners and operators of tankers and barges of requiring double hulls or double bottoms on tankers or barges engaged solely in the coastwise trade of the United States.

(c) DEFINITIONS.—For purposes of this section—

(1) "tanker" means a self-propelled tank vessel that is constructed or adapted to carry oil in bulk in the cargo spaces; and

(2) "barge" means a nonself-propelled vessel constructed or adapted to carry oil in bulk as cargo.

SEC. 214. USER FEES REPORT CLARIFICATION.

Section 664(c) of title 14, United States Code, is amended as follows:

(1) in paragraph (1) by striking "collected stating—" and substituting "collected under any law stating—"; and

(2) in paragraph (2) by inserting "under any law" after "collected" the first time it appears.

SEC. 215. REVIEW OF CRIMINAL RECORDS IN ISSUING AND RENEWING SEAMEN'S LICENSES.

Chapter 7 of title 46, United States Code is amended—

(1) in section 7101—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following:

"(f) The Secretary shall conduct a review of the criminal record of each individual who applies for a license under this section."; and

(2) in section 7109—

(A) by inserting "(a)" before "A license"; and

(B) by adding at the end the following:

"(b) The Secretary shall conduct a review of the criminal record of each holder of a license issued under this part who applies for renewal of that license under this section.".

SEC. 216. BOARD FOR THE CORRECTION OF MILITARY RECORDS.

Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall—

(1) amend part 52 of title 33, Code of Federal Regulations, governing the proceedings of the board established by the Secretary under section 1552 of title 10, United States Code, to ensure that an application for correction of military records is processed expeditiously and that final action on the application is taken within 10 months of its receipt; and

(2) appoint and maintain a permanent staff, and a panel of civilian officers or employees to serve as members of the board, which are adequate to ensure compliance with paragraph (1) of this subsection.

SEC. 217. CONSIDERATION OF MARITIME ADMINISTRATION VESSELS.

Before acquiring a vessel for use by the Coast Guard, the Secretary of Transportation or the Commandant of the Coast Guard, as appropriate, shall review the inventory of vessels acquired by the Secretary or the Secretary of Commerce as the result of a default under title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271–1279c), to determine whether any of those vessels are suitable for use by the Coast Guard.

SEC. 218. PROHIBITION AGAINST REDUCTION IN SERVICES.

Notwithstanding any other law, the Secretary of Transportation may not reduce the level of Coast Guard activity during Fiscal Year 1990 to increase drug law enforcement if amounts made available from all sources to carry out Coast Guard activities are equal to or greater than the amounts used to carry out Coast Guard activities during Fiscal Year 1989.

SEC. 219. SUSPENSION AND REVOCATION OF SEAMEN'S LICENSES FOR ALCOHOL ABUSE.

(a) IN GENERAL.—Chapter 77 of title 46, United States Code, is amended by adding the following new section:

"§ 7704a. Alcohol abuse as grounds for revocation

"(a) The Secretary shall suspend or revoke a license, certificate of registry, or merchant mariner's document if the Secretary determines the holder is a current or chronic abuser of alcohol.

"(b) Any determination by the Secretary to suspend or revoke a license, certificate of registry, or merchant mariner's document under this section shall be based on the severity of abuse of alcohol by the holder and the length of time necessary to control that abuse.

"(c) The Secretary shall conduct necessary investigations to determine if a holder is a current or chronic abuser of alcohol, if the Secretary receives information regarding any alcohol-related misconduct of the holder.

"(d) A suspension of a license, certificate of registry, or merchant mariner's document under subsection (a) shall remain in effect until the former holder provides sufficient proof that the former holder is no longer a current or chronic abuser of alcohol.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 77 of title 46, United States Code, is amended by adding "7704a. Alcohol abuse as grounds for revocation." after "7704. Dangerous drugs as grounds for revocation.".

SEC. 220. REQUIREMENT TO REPORT SEXUAL OFFENSES.

(a) IN GENERAL.—Chapter 101 of title 46, United States Code is amended by:

(1) deleting section 10104; and

(2) adding the following new section:

"§ 10104. Requirement to report sexual offenses

"(a) A master or other individual in charge of a documented vessel shall report to the Secretary a complaint of a sexual offense prohibited under chapter 109A of title 18, United States Code.

"(b) A master or other individual in charge of a documented vessel who knowingly fails to report in compliance with this section is liable to the United States Government for a civil penalty of $5,000."

(b) CLERICAL AMENDMENT.—The analysis for chapter 101 of title 46, United States Code, is amended by striking, "10104. Regulations." and inserting "10104. Requirement to report sexual offenses.".

SEC. 221. SOUTHEAST LIGHTHOUSE PRESERVATION.

(a)(1) The Secretary of the department in which the Coast Guard is operating shall convey, by any appropriate means, all right, title and interest of the United States in the Block Island Southeast Lighthouse to the Block Island Southeast Lighthouse Foundation (hereafter referred to as the "Foundation") of the town of New Shoreham, Rhode Island.

(2) The purpose of this conveyance is to establish and maintain a nonprofit center for the public at the Block Island Southeast Lighthouse for interpretation and preservation of the culture of the United States Coast Guard and Block Island's maritime history.

(b) The conveyance shall be made—

(1) without payment of consideration;

(2) subject to the condition that if the property, or any part of the property, ceases to be used for the purpose of this section, title to all such property shall be deemed to have immediately reverted to the United States; and

(3) subject to such other terms and conditions as the Secretary of the department in which the Coast Guard is operating may impose.

(c) The conveyance shall include provisions necessary to assure that—

(1) the light, antennae, sound signal, and associated equipment which are active aids to navigation shall continue to be operated and maintained by the United States;

(2) the Foundation will not interfere or allow interference in any manner with navigational aids without written permission of the United States;

(3) there is reserved to the United States the right to relocate, replace, or add any navigational aids, or make any changes on any portion of the property as may be necessary for navigation purposes;

(4) the United States shall have the right, at any time, to enter the property without notice to maintain navigational aids; and

(5) the United States shall have an easement for access to the property to maintain navigational aids.

(d) The Secretary of the department in which the Coast Guard is operating shall identify, describe, and determine the property to be conveyed under this section.

(e) For purposes of this section, "Block Island Southeast Lighthouse" means the lighthouse and attached keeper's dwelling, several ancillary buildings, a fog signal, and land necessary to carry out the purposes of this section located in the town of New Shoreham, Rhode Island.

Purpose of the Bill

The primary purpose of H.R. 2459 is to authorize funds for the United States Coast Guard for Fiscal Year 1990. Funding areas authorized include: Operating Expenses (OE); Acquisition, Construction, and Improvements (AC&I); Research and Development (R&D); Bridge Administration; and Retired Pay. In addition to authorizing funding, the proposed legislation sets end-of-year strength levels for active duty military personnel and establishes military training levels. The bill also addresses several other areas under the jurisdiction of or affecting the Coast Guard.

Background and Need for Legislation

The Coast Guard, created in 1915, is responsible for the performance of Federal functions that trace their beginnings back to the founding of the United States. The Coast Guard has assumed the duties of five previously established agencies: the Lighthouse Service, established in 1789; the Revenue Cutter Service, established in 1790; the Steamboat Inspection Service, established in 1838; the Life-Saving Service, established in 1848; and the Bureau of Navigation, established in 1848.

Today's Coast Guard operates as a part of the Department of Transportation, with primary responsibility for the promotion of safety of life and property at sea; the enforcement, or assistance in enforcement, of all applicable Federal laws (including fisheries and drug laws) on, over, and under the high seas and United States waters; the maintenance of aids to maritime navigation; the protection of the marine environment; icebreaking activities; and the safety and security of vessels, ports, waterways, and their related facilities.

The Coast Guard, as a military service and a branch of the Armed Forces, also maintains a readiness to operate as a specialized service in the Navy upon the declaration of war or when the President directs.

The legal responsibilities of the Coast Guard have expanded enormously over the past 20 years as the result of the passage of a series of maritime-related laws. These include:

The Water Quality Improvement Act of 1970, which required the Coast Guard to develop anti-pollution measures—including vessel sewage standards—and investigate pollution incidents.

The Federal Boat Safety Act of 1971, which empowered the Coast Guard to prescribe standards for the manufacture and construction of pleasure boats and associated equipment.

The Vessel Bridge-to-Bridge Radiotelephone Act of 1971, which authorized the Coast Guard to administer and enforce regulations requiring approaching vessels to maintain radio contact for communicating their intentions.

The Federal Water Pollution Control Act of 1972, which gave the Coast Guard major responsibility for coordinating oil spill cleanup and for management of an oil pollution fund.

The Ocean Dumping Act of 1972, which gave the Coast Guard enforcement authority over ocean dumping and marine sanctuaries.

The Ports and Waterways Safety Act of 1972, which delegated to the Coast Guard major responsibility for ensuring the safety of ports and merchant vessels.

The Intervention on the High Seas Act of 1974, which authorized Coast Guard intervention to control or eliminate oil pollution which may be dangerous to the United States or which stems from high seas casualties involving either domestic or foreign vessels.

The Trans-Alaska Pipeline Act of 1974, which required the Coast Guard to establish a vessel traffic service in Prince William Sound.

The Hazardous Materials Transportation Act of 1975, which gave the Department of Transportation lead authority over regulating the transportation of hazardous materials.

The Fishery Conservation and Management Act of 1976, which assigned enforcement responsibility for expanded U.S. fisheries jurisdiction to the Coast Guard and the National Marine Fisheries Service.

The Port and Tanker Safety Act of 1978, which set minimum design and construction standards for tankers and authorized the Coast Guard to inspect foreign tankers, evaluate their crew standards, and monitor oil lightering operations in U.S. offshore waters.

The Natural Gas Pipeline Safety Act of 1978, which required regulation of the transportation of liquefied natural gas on the navigable waters of the United States.

The Coast Guard High Seas Drug Law Enforcement Act of 1980, which revised the laws relating to the importation of drugs to facilitate increased enforcement by the Coast Guard.

The Act to Prevent Pollution from Ships of 1980, which gave the Coast Guard authority to administer and enforce certain international requirements through certification and inspection requirements, to determine the adequacy of reception facilities, and to require prompt reports of pollution incidents.

The Anti-Drug Abuse Acts of the 1986 and 1988, which gave the Coast Guard added responsibilities and funding in the areas of waterborne and airborne drug interdiction.

The Omnibus Diplomatic Security and Antiterrorism Act of 1986, which requires the Coast Guard to improve the security of port, harbor, and coastal facilities.

The Plastic Pollution Research and Development Act, which makes it illegal for ships to dispose of plastics at sea and gave the Coast Guard enforcement authority.

In addition, the Coast Guard has been assigned, pursuant to Executive Order, the responsibility for carrying out the Haitian Migrant Interdiction Operation. Under a memorandum of understanding with the Department of Defense, Coast Guard officers have also been assigned command roles with respect to the Atlantic and Pacific Maritime Defense Zones of the United States. In cooperation with other Federal agencies, the Coast Guard has been tasked with providing maritime security for the President's home in Kennebunkport, Maine.

Despite the steady increase in its responsibilities, the Coast Guard's end-of-year employment of military and civilian full-time permanent personnel is projected to be 43,927 at the end of fiscal year 1990. This number is 1,878 less than the comparable figure of 1980.

To achieve its multiple objectives, the Coast Guard has established seven missions or programs that are used as a basis for budgetary considerations. They are: Search and Rescue; Aids to Navigation; Marine Safety; Marine Environmental Protection; Enforcement of Laws and Treaties; Marine Science and Polar Ice Operations; and Military Readiness.

With regard to funding, the Coast Guard has received fairly constant levels between 1983 and 1987. However, in 1988, the Coast Guard suffered a $103 million shortfall in its appropriation. This cut forced the Coast Guard to drastically scale-back drug interdiction and to close or reduce the manning of a number of units. A supplemental appropriation of $60 million enabled the Coast Guard to resume its drug interdiction activities.

In Fiscal Year 1989, the Coast Guard saw its appropriation increase by over $430 million. This increase was due primarily to additional Coast Guard funding that was contained in Department of Defense appropriations bills ($256.3 million) and the Anti-Drug Abuse Act of 1988 ($116 million). However, a considerable portion of these additional funds were earmarked for specific missions or construction programs and were not available for multimission operations. Piecemeal and earmarked funding of this type has been a recurring problem for the Coast Guard in the 1980's because it makes planning difficult and results in an inefficient use of resources which are normally deployed in a multimission operational program. Therefore, in an effort to improve predictability, the Coast Guard has again incorporated these funds in its base funding level for 1990. The Committee has supported this effort to improve the predictability of Coast Guard funding by authorizing amounts in H.R. 2459 equal to the Administration's request.

The Administration has requested a total of $3,374,000,000 for the Coast Guard for Fiscal Year 1990. The bill, as reported by the

Full Committee, authorizes $3,377,000,000 for Coast Guard programs. The Department of Transportation, the Coast Guard, and the Committee agree that this funding request is a "bare bones" budget, the minimum funding the Coast Guard requires to meet its current and reasonably anticipated operating and capital plant requirements for fiscal year 1990.

OPERATING EXPENSES

H.R. 2459 authorizes $2,285,200,000 for Operating Expenses for Fiscal Year 1990. Approximately 65 percent of the entire Coast Guard budget is devoted to Operating Expenses. The Coast Guard's multimissions include search and rescue, marine environmental protection, ice operations, aids to navigation, marine safety, defense readiness, and enforcement of laws and treaties. The funds in the Operating Expenses account are spent to operate and maintain multipurpose vessels, aircraft, and shore units along the coasts and inland waterways of the United States and in selected areas overseas. These expenses also include military and civilian salaries.

Personnel increases

The amount authorized is sufficient to maintain the Coast Guard's active military personnel at a level of 39,299. This represents an increase of 1,100 personnel above the Administration's request. However, the Coast Guard is required to increase its active duty personnel only if the amount appropriated for Operating Expenses is above $2,242,200,000 (the amount requested by the Administration), and then it may spend a maximum of $39,600,000 for that purpose. Even if the additional $39,600,000 is appropriated, the Coast Guard's active military personnel level for Fiscal Year 1990 will still be below the level of Fiscal Year 1980. The Committee believes that the higher levels of active military personnel it is recommending are required to meet the increased responsibilities that can be anticipated in oil spill legislation moving through Congress and to maintain its current operational levels in the war on drugs.

The Committee is also concerned that the civilian work force at the U.S. Coast Guard Yard in Baltimore, Maryland, and the Aircraft Repair and Supply Center (AR&SC) in Elizabeth City, North Carolina, is inadequate for their work load. Therefore, the Committee directs the Secretary to establish a fiscal year 1990 civilian industrial work force of 407 positions (400 full-time equivalents) at the AR&SC. In addition, the Committee intends that the AR&SC may hire, within available funds, up to an additional 100 workers on projects as needed, without regard to any other Department of Transportation limitation on employment.

Drug interdiction

With regard to drug interdiction, President Bush requested an additional $10 million for this mission over what was contained in the previous Administration's budget request. H.R. 2459 includes the additional amount. This legislation has several provisions directed at helping the Coast Guard enhance the effectiveness of its drug interdiction efforts. The Committee encourages the Coast

Guard to use a portion of the 1,100 active military personnel for drug interdiction. The bill also contains a provision that seeks to identify what can be done to increase the Coast Guard's ability to conduct its law enforcement activities, including drug interdiction. Section 210 directs the Secretary of Transportation to report to Congress on the need to outfit existing Coast Guard aircraft with surveillance and reconnaissance equipment. It also requires the Secretary, in cooperation with the Secretary of Defense, to establish a plan to close existing gaps in radar coverage along the coastline of the southeastern United States on the Atlantic Ocean.

The Committee strongly supports greatly increased involvement in the war on drugs by the Coast Guard and other agencies. We believe this "war" will not be won until full mobilization takes place. That has not yet come. Meanwhile, it is the Committee's duty to undertake the delicate balancing act of preserving the Coast Guard's traditional mission of protecting lives at sea and safeguarding the marine environment while developing an effective, efficient means of using Coast Guard resources in a concerted governmentwide effort to protect the lives of Americans from the debilitating and deadly scourge of illegal drugs.

Fighting the war on drugs without adequate funding of that mission has had a direct and, in the Committee's view, an undesirable impact on the Coast Guard's other missions. The Committee is particularly concerned with the diversion of Coast Guard resources from its other missions to increase its drug interdiction efforts. This practice has resulted in a significant diminution in the Coast Guard's ability to respond to oil and hazardous chemical spills, fisheries law enforcement, and search and rescue. For example, marine safety programs, the principal structure through which the Coast Guard responds to oil and hazardous material spills, comprised 14.2 percent of the Coast Guard's operating budget in fiscal year 1980. By fiscal year 1983, when the "war on drugs" was launched in force, marine safety accounted for only 7.6 percent of the operating budget. That level fell again in fiscal year 1986 to only 6.0 percent of the operating budget. On the other hand, the percentage of the operating budget for Coast Guard's drug interdiction activity grew from 18 percent in fiscal year 1983 to 24 percent in fiscal year 1989, a growth rate very near the amount that the marine safety mission was cut. In the Committee's view this provides strong evidence that the Coast Guard's role in the war on drugs is coming at the expense of marine safety programs and other missions.

The Committee's concern predates the 1986 drug bill (P.L. 99–570), which includes language (section 3251(c)) restricting the Coast Guard from increasing its drug interdiction activities unless specific appropriations were made available for that purpose. The Committee included similar language in the 1988 drug bill (section 7405(c)). Despite the clear language of these statutes, the Coast Guard has continued to divert personnel and resources away from marine safety, law enforcement, pollution response, military readiness, and other important missions to meet the minimum requirements of the drug interdiction mission it has been assigned. Frankly, the Coast Guard has been forced into a "Catch 22" position—it clearly sees a need for greatly expanded involvement in the war on

drugs but is confronted with a budgetary climate that is, apparently, incapable of providing sufficient resources to fully fund all its important missions.

The Committee desires to see more balance between missions, and at the hearing on March 9, Members questioned the Commandant at length about their concerns. In response, the Commandant committed to "walk back" resources that were previously dedicated to other missions but that had been diverted to drug interdiction. The Committee would prefer that more resources and personnel were made available for all Coast Guard missions rather than seeing the Coast Guard have to "rob Peter to pay Paul". However, until full funding is achieved, the Committee will continue to insist on a more balanced use of Coast Guard resources.

To reaffirm the Committee's position on this issue, section 218 of H.R. 2459 prohibits the Coast Guard from reducing any activity carried out in fiscal year 1990 below the amount spent in fiscal year 1989 in order to increase drug interdiction activities. It is intended to make it clear to the Coast Guard that it cannot increase its drug interdiction activities at the expense of other vital missions. However, it is not the intention of the Committee to hold the Coast Guard to an exact expenditure figure or to reduce the Coast Guard's ability to respond to possible interdiction opportunities that cannot be reasonably foreseen at this time. Nonetheless, the Committee does intend that the Coast Guard maintain all current missions and that any reductions in service necessitated by inadequate appropriations be equitably distributed among its various missions. It is important to underscore that the clear majority of the Committee favors greater Coast Guard participation in the war on drugs, provided that the Administration and the Congress provide it the additional funds it requires to undertake that broader role without adversely affecting the Coast Guard's other missions.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Section 101(2) authorizes $645,050,000 for acquisition, construction, and improvements (AC&I) for fiscal year 1990. This category funds major acquisitions, construction, and improvements of vessels, aircraft, shore facilities, and aids to navigation.

Icebreaking capacity

Among other items in its AC&I budget request, the Administration asked for $244 million to acquire a replacement polar icebreaker. The Committee agrees the Coast Guard must make a significant commitment to a long-term shipbuilding program, and the Committee generally supports the Administration's effort to undertake such an initiative. Likewise, the Committee recognizes the inadequacy of the Coast Guard's icebreaking fleet. However, it does not agree that purchasing a new icebreaker is a top priority for fiscal year 1990 considering the Coast Guard's overall shipbuilding needs. The Committee believes it is more prudent to make the funding decision on the icebreaker following completion and submission to the Congress of the President's report on the nation's icebreaking needs mandated by Section 23 of the Coast Guard Authorization Act of 1989 (Public Law 100-448).

Even as the Committee differs on the priority the Administration gave to the icebreaker acquisition, section 103 of the bill gives the Coast Guard the option of acquiring an icebreaker by bareboat charter or by direct purchase. Since some Members of the Committee differ on the best approach to take in this regard, this section also directs the Secretary to evaluate the two methods and determine which is in the best interest of the United States. The provision also ensures that the icebreaker is built in the United States.

The Committee did allocate funds for improving the Coast Guard's icebreaking capacity on the Great Lakes. Some $20 million have been included to rehabilitate the Coast Guard Cutter *Mackinaw,* to remain available until expended to provide phased renovations on the *Mackinaw* to extend her service life for an additional 15–20 years. This would include, among other improvements, rebuilding the main propulsion control panel, upgrading the ship's service generator, replacing the electrical distribution system, installation of heating, ventilation, and air conditioning, installation of a fixed firefighting system, replacing the main engine, and crew habitability upgrades. Because of the *Mackinaw*'s critical role in keeping shipping channels open on the Great Lakes, all work should be scheduled incrementally to avoid interruption of services during the incebreaking season.

This five-year service life extension would not preclude the Coast Guard from establishing a board of officers (or some other procedure) to evaluate the suitability of prolonging the useful life of the *Mackinaw* for 30 years. An assessment should be made of the icebreaking requirements on the Great Lakes and a recommendation made on the assets necessary for meeting those needs.

Patrol boats

Because the Committee feels strongly about the Coast Guard's shipbuilding needs, the bill reallocates the funds requested for the icebreaker. Much of the funds have been authorized to procure at least 20 high-speed patrol boats not later than six months after the date of enactment of this Act. The Committee's effort is to rapidly address the patrol boat shortage that the Coast Guard will experience, beginning next year and escalating through the mid-1990's, until a nearly 30 percent shortfall is likely to occur. Such a shortfall will undermine the Coast Guard's search and rescue mission and its law enforcement capabilities (including drug interdiction).

A large portion of the Coast Guard's patrol boat fleet is aging and in need of replacement. At present, the Coast Guard operates various size patrol boats, including sixteen 95-foot cutters, fifty-three 82-foot cutters, three 110-foot surface effect ships, and thirty-seven relatively new 110-foot "Island Class" cutters. The 95-foot patrol boats are at the end of their service life, they have high operational and maintenance costs, some are suffering from potentially dangerous structural fatigue, and all will soon have to be decommissioned. Many of the 82-foot patrol boats will have to be reengined to continue their present operational status, but these vessels are rapidly approaching the end of their service lives.

The Coast Guard's long-term plans for replacing the 82-foot patrol boats rest largely on the new "Heritage Class" cutters. Earlier this year, the Department of Transportation approved a deci-

sion to complete design work and to construct a prototype of this vessel at the Coast Guard's Curtis Bay Yard. Even if there are no significant delays, it could take as many as seven years to get the first production "*Heritage* Class" cutter into service. Because of the decommissioning of the 95-foot partol boats and the lead time needed for the new "*Heritage* Class" cutters, the Committee has conlcuded that the existing patrol boat acquisition program will result in a substantial shortfall in the number of vessels needed to adequately meet vital mission requirements, including law enforcement and drug interdiction generally. In addition, other programs such as search and rescue, marine environment protection, and fisheries conservation could be curtailed.

Although the Administration did not request funds for patrol boats in its fiscal year 1990 budget, the Committee feels reasonably assured that its decision on shipbuilding priorities (from an icebreaker to patrol boats) is not in fundamental disagreement with either the Coast Guard or the Administration. The Committee is aware that the Coast Guard has sought support from Naval Sea Systems Command, which holds an option under the fixed-price contract for an additional sixteen 100-foot partol boats, for the purchase of these boats using fiscal year 1989 Department of Defense funds specifically designated for patrol boats. This effort was apparently rejected by the Navy, which plans to use these funds to procure patrol boats for its special forces. In addition, subsequent to the Committee markup of H.R. 2459, the Administration requested congressional authority to use prior year funds to acquire additional 100-foot patrol boats. In any event, the Committee believes that the Coast Guard must move rapidly in fiscal year 1990 to procure additional patrol boats in order to avert or mitigate the projected patrol boat shortfall.

Rigid hull inflatable boats

Section 101(2)(F) authorizes $750,000 to procure not more than six rigid-hulled inflatable jet-propelled emergency rescue boats suitable for carrying out search and rescue missions in shallow waters. This section waives the requirement in section 665 of title 14, United States Code, that vessels the Coast Guard acquires be built in the United States.

The Coast Guard does not believe that this procurement is subject to the U.S. built requirement. The Committee disagrees with this interpretation of the law. The Committee notes that "vessel," as it is used in section 665, means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water. Therefore, this procurement is, and other similar procurements would be, covered by section 665.

This limited exemption from the U.S. built requirement is being permitted because of Coast Guard reports that there are no existing, off-the-shelf vessels available from a U.S. manufacturer to timely meet the procurement that the bill authorizes. The section provides that the boats may be acquired foreign unless the boats are available in the United States.

However, the Committee notes that the Coast Guard is proceeding with a phased replacement of existing rigged-hull inflatable boats used aboard its cutters. The exemption from the U.S. built

requirement does not apply to this procurement. The Committee expects the Coast Guard to work with domestic shipbuilding and marine manufacturing firms to develop the capability in the United States to construct these boats.

Motor lifeboats

Although the Committee did not make a line-item authorization of the Coast Guard's request for $5,800,000 for its motor lifeboat program, the Committee strongly supports this effort and recommends full funding of the Administration's request. The Coast Guard operates a fleet of 105 motor lifeboats at 77 Coast Guard stations. These vessels are designed for search and rescue in all types of weather and sea conditions. The existing fleet was built in the early 1960's and is at the end of its 25-year service life. The Coast Guard is experiencing high operating and maintenance costs and is having difficulty obtaining repair and replacement parts on its existing motor lifeboats.

On June 29, 1988, following a nationwide competition, the Coast Guard awarded a contract for completion of design and construction of a first prototype vessel, which is to be delivered this year. The prototype contract is proceeding ahead of schedule, within budget, and meeting all requirements. The contract also includes an option for five pre-production boats scheduled to be awarded in May 1990.

The Committee agrees with the Administration's decision to seek full funding of the Coast Guard's request for this shipbuilding program. The requested funds will be used to test the prototype and construct the additional pre-production boats, which will also undergo rigorous testing in various weather and sea conditions. This testing program is essential, in the Committee's view, for making design and performance modifications to the vessel before proceeding with the replacement program construction award.

Other specific authorizations

The remaining funds are to be used to mount radar on C–130 aircraft, a project which the Committee believes will improve the Coast Guard's surveillance and interdiction capabilities; to acquire 12 antisubmarine warfare trainers for the 378-foot cutters; to continue the procurement process for the polar icebreaker; $33 million is transferred to the Operating Expenses account to increase the number of active duty personnel; and $5 million is transferred to the Research and Development Account to research techniques to improve the cleanup of oil and hazardous material spills.

RESEARCH AND DEVELOPMENT

H.R. 2459 authorizes $24 million for the Coast Guard's research, development, test, and evaluation program. The Committee would like to point out that the Coast Guard has not conducted sustained oil spill research and development since 1984. On March 24, 1989, the *Exxon Valdez*, a 978-foot tanker transporting Alaskan oil, ran aground in Prince William Sound off the coast of southern Alaska. The resulting oil spill was the largest in U.S. history spilling over 240,000 barrels of crude oil and soiling hundreds of miles of pris-

tine coast. The inadequate Federal response to the *Exxon Valdez* oil spill highlighted the urgent need for additional Coast Guard resources, and the development of improved oil spill response equipment and techniques.

In the wake of that spill, it is imperative that the Coast Guard improve its oil spill prevention and response capabilities. Therefore, the Committee is authorizing a higher number of active military personnel, in part, to allow the Coast Guard to reestablish its Atlantic Strike Team in Elizabeth City, North Carolina, and to create another strike team on the west coast (for a total of four strike teams), as well as to increase the number of personnel assigned to marine safety and local Captain of the Port offices. Personnel assigned to these offices respond to oil and hazardous chemical spills as well as inspect oil and hazardous chemical facilities and vessels to insure compliance with Coast Guard regulations.

The Committee would like to highlight several areas of oil spill cleanup technology that it believes need improvement. First, several European countries have large dual purposes skimmer vessels. The Dutch have a hopper dredge that is capable of recovering large amounts of oil as a skimmer and the West Germans have buoy tenders that double as oil skimmers. The Committee believes these types of vessels would improve Federal oil spill response capabilities at a significant savings to the Government.

Second, the Environmental Protection Agency has been using biodegradants (substances that promote oxidation of oil by microbial action) on the *Exxon Valdez* oil spill with some success. The Committee believes that these substances have the potential to vastly improve oil spill cleanup and ought to be investigated thoroughly.

Third, the use of dispersants have been a very controversial aspect of the *Exxon Valdez* oil spill. The Committee believes that increased knowledge regarding the appropriate conditions for dispersant use and the environmental consequences of their use are necessary to prevent future controversies.

Finally, the Committee notes that several Federal agencies are conducting oil and hazardous chemical spill research and encourages the Coast Guard to coordinate its research efforts with those agencies.

PROVISIONS RELATED TO OIL SPILL PREVENTION AND RESPONSE

As the Committee acted on H.R. 2459, a number of the factors that contributed to the *Exxon Valdez* spill were evident. H.R. 2459 contains provisions to reduce the possibility of future spills of this magnitude.

Vessel traffic services

The *Exxon Valdez* spill demonstrated the important roll of an efficient, modern vessel traffic service (VTS) in accident prevention. While the need to improve and expand the vessel traffic service in Prince William Sound is addressed in other legislation (H.R. 2158, the Prince William Sound Oil Spill Response Act), H.R. 2459 directs the Coast Guard to reinstate vessel traffic services at two of the most congested ports in our Nation. Vessel traffic services in

New York and New Orleans were eliminated in 1988 as part of a reduction in spending by the Coast Guard. Section 209 directs the Secretary of Transportation (1) to reestablish vessel traffic services in New York and New Orleans; and (2) to identify within six months those ports and coastal channels through which large quantities of oil or hazardous materials are transported.

The *Exxon Valdez* spill generated considerable debate over the value of double hulls for tankers. In a double hull vessel there is a space between the outer shell of the vessel and the cargo compartment, so that if only the outer hull is damaged the cargo will not leak into the ocean or other waterways. There are numerous questions concerning the value of this type of construction. For example in the *Exxon Valdez* spill, the damage was so extensive that if the vessel had a double hull, both hulls would have been ruptured and the oil would have still polluted Prince William Sound. More importantly, some experts believe this type of vessel is less stable and might actually contribute to or aggravate a spill. Section 213 directs the Secretary of Transportation to submit to Congress a study evaluating the safety benefits and cost effectiveness of requiring double hulls or double bottoms on tankers and barges. This study will greatly aid the Congress in examining the value of double hulls on tankers and barges.

Mariners' licenses

H.R. 2459 contains provisions related to the issuance and renewal of licenses for mariners. In response to the grounding of the *Exxon Valdez,* as well as other instances when alcohol abuse contributed to maritime fatalities, the Committee adopted two provisions requiring the Secretary of Transportation to examine the criminal records of license applicants and current license holders seeking renewal, and to suspend or revoke the license of any seaman who is a current or chronic alcohol abuser.

Title 46, United States Code sets out standards for issuing merchant mariner documents. The Secretary of Transportation reviews the character of applicants for seamen's papers. The Coast Guard currently conducts a search of certain criminal records of an applicant for a document. Section 215 of H.R. 2459 requires the Secretary to review the criminal records of each individual applying for a license or seeking to renew a license. While a criminal conviction would not in itself be grounds for denial, suspension, or revocation of a license, the Committee believes the Secretary should have information on any criminal record of an individual.

Section 219 provides that the Secretary of Transportation shall suspend or revoke the license or certificate of registry of any person who is a current or chronic abuser of alcohol. Current law (Sections 7503 and 7704 of title 46, United States Code) provides that seamen's papers will not be issued or renewed for an individual who has been convicted of violating a dangerous drug law of the United States or who is a current or chronic user of drugs. Since alcohol dependency should be treated in the same manner as other forms of drug addiction, section 219 seeks to assure that persons with alcohol dependency will not hold seamen's papers. This prohibition should reduce alcohol-related maritime casualties.

The Lowey amendment is intended to grant to Coast Guard expanded authority to act on information that any holder of a license, certificate of registry, or merchant mariner's document is a current abuser of alcohol. The new provision corrects section 7703 of title 46, United States Code, which restricts the Coast Guard's authority to suspend or revoke a mariner's license, certificate of registry or merchant mariner's document. Under section 7703 the Coast Guard can only act on information about mariners' misconduct while the mariner is operating under the authority of the Coast Guard license.

The amended section 7704, permits the Coast Guard to suspend or revoke a license, certificate of registry, or merchant mariner's document based on information that the mariner has a current or chronic problem of alcohol abuse.

Before the Coast Guard may take any action, a thorough investigation must be conducted to determine if the mariner does indeed have an alcohol abuse problem that could detrimentally affect his ability to discharge his maritime duties.

Section 7704 is not intended to discriminate against recovering alcoholics. The term "abuse" was carefully chosen to indicate that for a mariner to fall under the purview of this section, that mariner must be abusing alcohol in a manner that is impairing his ability to fulfill his duties as a mariner.

The term "chronic" does not apply to recovering alcoholics. It is possible to be a recovering acoholic and not be a chronic abuser.

ADDITIONAL PROVISIONS

H.R. 2459 also contains several new initiatives related to Coast Guard programs.

Privatization

The Committee is dedicated to ensuring that the Coast Guard continues to perform functions that are critical to its missions. Therefore, the Committee is concerned with the ramifications of turning Coast Guard operations over to the private sector. OMB Circular A–76 requires agencies to procure commercial goods and services from private sector sources when they can perform the same quality job at less cost than a Government source could. The use of OMB Circular A–76 has often reflected OMB's preoccupation with budget decisions and the short-term consequences of policy decisions.

Section 205 requires that a Federal Government employee meet three conditions in order to contract out any function Coast Guard personnel were performing as of January 1, 1989. The conditions are: (1) the Secretary of Transportation has completed an OMB Circular A–76 study, (2) the Secretary has completed a study to determine the impact contracting out would have on the Coast Guard's multimission capabilities, and (3) the Secretary has submitted copies of the studies to the House Committee on Merchant Marine and Fisheries and the Senate Committee on Commerce, Science, and Transportation. The Committee will carefully review these studies. In addition, the Subcommittee on Coast Guard and Navigation is planning an oversight review of previous contract awards

made under the Circular A–76 process to assess their effectiveness for achieving taxpayer savings, their impact on multimission personnel availability and the overall readiness of the Coast Guard, and other factors to determine if special considerations unique to the Coast Guard should be included in future contracting initiatives.

Use of the Procurement Automated Source System

The Coast Guard, as other agenices, has an obligation to use small businesses to obtain various goods and services. The Small Business Administration has a nationwide database of small businesses known as the Procurement Automated Source System (PASS) that allows agencies to efficiently find and select appropriate small business sources. The committee recognizes that the Coast Guard already uses this system on a limited basis and would like to encourage the Coast Guard to employ this system more extensively agency-wide. Specifically, the two Regional Maintenance and Logistics Centers should follow the example set by Coast Guard Headquarters and take greater advantage of the system. After one year of increased use of this system, the Coast Guard should compare the usefulness of PASS and any financial savings that have resulted therefrom.

Constructive seizure

H.R. 2459 also contains a provision relating to the seizure of vessels on which small amounts of drugs are found. In recent years, the Coast Guard has attempted to combat recreational drug use by developing a program popularly known as "zero tolerance." Prior to the institution of this program, the Coast Guard typically did not take action against the owner of a vessel if the Coast Guard discovered small amounts of drugs for the personal use of a person on board. Under the "zero tolerance" program the Coast Guard seizes a vessel if even trace amounts of drugs are discovered without regard to the owner's knowledge of the presence of drugs. Section 212 of H.R. 2459 is aimed at protecting the unknowing owner of a vessel on which drugs are found. It directs the Secretaries of the Treasury and Transportation to develop a procedure for the "constructive seizure" of a coastwise trading vessel on which drugs are found. This new procedure with protect the innocent owner from the economic impact of an actual seizure of a commerical vessel while investigations are conducted.

Sexual assault

The Committee is concerned that sexual assault aboard ship is largely unreported. Among the reasons victims cite for failing to report these offenses are fear of retaliation or other negative repercussions, feelings of embarrassment, shame, and guilt; and the belief that reporting would be pointless because it is unlikely that anything would be done to remedy the situation. After the General Accounting Office (GAO) investigated the incidence of women being sexually assaulted on U.S.-flag merchant vessels, two bills were introduced by members of our Committee to address the concerns raised by the GAO report. H.R. 2466 was introduced on May 23, 1989, by the Honorable Bob Davis and H.R. 1647 by the Honorable

Jolene Unsoeld on March 23, 1989. The GAO recommended that the Coast Guard require masters of vessels or other responsible officials to promptly report to the Coast Guard any complaint of a sexual offense covered by the Sexual Abuse Act of 1986. The Committee follows the GAO recommendation in section 221. That section requires a master or other person in charge of a documented vessel to report to the Secretary complaints that the Sexual Abuse Act was violated, and establishes, a $5,000 civil penalty for a master or other responsible official who knowingly fails to report. The Committee's objective is to encourage victims to report sexual offenses by assuring them that their accusations will be taken seriously and that their safety will be protected for the duration of their service aboard ship.

Other initiatives

The bill addresses a number of other issues discussed in the section-by-section analysis including:

Extension and modification of the Rules of the Road Advisory Council and extension of the Towing Safety Advisory Committee.

An amendment to section 4508 of title 46, United States Code, which prohibits the Secretary from considering the political affiliation of individuals considered for appointment to the Commerical Fishing Industry Vessel Advisory Committee.

Technical amendments to the Act to Prevent Pollution from Ships.

Technical corrections to the law protecting military whistleblowers.

Amendments to the statutes governing certain Coast Guard personnel matters, including continuity of grade, appointment, and retirement.

Authorization for the Coast Guard to establish a pilot Junior Reserve Officers Training Program in Dade County, Florida.

A requirement that when the Coast Guard contracts for services in a state with a high unemployment rate, the Coast Guard hire local residents.

A requirement that the Secretary of Transportation submit a report on the options available to control the introduction of exotic species into U.S. waters, including the Great Lakes, through vessel ballast water.

A requirement that the Secretary of Transportation report to Congress on the costs the Coast Guard incurs providing security to the President at Kennebunkport, Maine, and to seek reimbursement for those expenses.

An amendment to title 46, United States Code, which defines the term "numbered vessel."

An amendment to section 664 of title 14, United States Code, which clarifies that the user fee report required by that section should include user fees collected under any law.

A requirement that the Secretary of Transportation revise the regulations governing the Coast Guard's Board for Correction of Military Records to ensure that applications for relief are processed expeditiously.

A provision requiring the Coast Guard or the Secretary of Transportation to review the Maritime Administration's title XI inventory of vessels to determine if any of those vessels are suitable for Coast Guard use. Under title XI of the Merchant Marine Act of 1936, the Federal Government guarantees loans for the purchase of fishing and other commercial vessels. Many of these loans have been defaulted on, and the Maritime Administration has taken possession of the vessels, many of which are in excellent condition. Unless the agencies can immediately sell the foreclosed vessel, they can incur sometimes substantial storate and maintenance costs.

This amendment directs the Secretary, before issuing a contract for the acquisition of a new Coast Guard vessel to examine the inventory of vessels maintained by the United States to see if any are appropriate. By purchasing one of the inventory vessels, the Secretary can save money (lower initial costs, savings in maintenance fees), and time.

This amendment is in no way intended to create a burdensome administrative process or to force an unsuitable vessel on the Coast Guard. It is contemplated that the Secretary would develop a formal agreement on this issue, and an answer could be provided through a single telephone call or a computer file check. In addition, if a vessel that fulfills the Coast Guard's requirements is available at a lower cost, the Secretary may purchase it, but is not required to do so.

Authorization of the transfer of the Block Island Southeast Lighthouse to the Block Island Southeast Lighthouse Foundation.

Committee Action

The Subcommittee on Coast Guard and Navigation held a hearing on the subject of Coast Guard authorization levels on March 9, 1989. The Commandant of the Coast Guard was the only witness to testify.

The Coast Guard Authorization Act of 1989 was introduced on May 24, 1989, by the Honorable Billy Tauzin, Walter B. Jones, Robert W. Davis, and Sam Gejdenson. It was referred to the Subcommittee on Coast Guard and Navigation.

The Subcommittee marked up H.R. 2459 on May 24, 1989. Chairman Tauzin offered several amendments en bloc, which were primarily technical in nature. One amendment would require the Secretary of Transportation to formalize procedures for the constructive seizure of commercial vessels operating solely in the coastwide trade that are suspected of being used for committing violations of drug laws.

The Honorable Gerry Studds offered two amendments. The first would require the Secretary of Transportation to conduct a study on the desirability of requiring double bottoms on tankers and barges. The other amendment, offered also on behalf of the Honorable George J. Hochbrueckner, would require the Coast Guard to purchase six shallow-draft rescue boats.

The Honorable Thomas J. Manton offered an amendment that would require the Coast Guard to conduct a criminal background

check on a holder of a license when that license is renewed. It also codifies the existing practice of conducting a criminal background check when an individual applies for a license.

Mr. Davis offered an amendment that clarifies the way the Coast Guard reports on user fees that are being imposed. All amendments and the motion to report the bill, as amended, to the Full Committee were adopted by unanimous voice vote.

The Full Committee met on June 21, 1989 to mark up the legislation. Chairman Jones offered a substitute amendment. The substitute adds an additional $10 million in operating expenses for the anti-drug effort; authorizes $2.3 million for bridge alterations and removals; expands the water ballast study to include all waters; expands the study of oil and other hazardous cargo ports to include coastal channels; directs the Secretary of Transportation to establish expedited procedures for the Board for the Correction of Military Records; and expands the jurisdiction of the Rules of the Road Advisory Committee.

Chairman Tauzin offered an amendment to the substitute that would require the Secretary of Transportation to advise the relevant Committees of Congress about A–76 contracts, rather than requiring Committee approval of those contracts as the bill, as introduced, would have required. The amendment was adopted by unanimous consent vote.

Mr. Davis offered three amendments to the substitute. The first amendment would codify the existing Coast Guard administrative practice of not separating reserve officers through captain's retention boards for under 18 years of service. The second amendment would require the Coast Guard to review the Maritime Administration's (MARAD) inventory of defaulted title XI vessels prior to procuring any new vessel to determine if any of the MARAD vessels are suitable for use by the Coast Guard. These two amendments were adopted by voice vote. The last amendment would prohibit the Coast Guard from decreasing any other missions to increase their drug interdiction activities. After a voice vote approving the amendment, a roll call was requested. The Members voted by a show of hands. The vote was 23 ayes and ten nays. The amendment was agreed to.

Mr. Studds offered two amendments. The first would prohibit the Secretary of Transportation from asking about or considering political affiliation when selecting members of the Commercial Fishing Industry Vessel Advisory Committee. It was adopted by voice vote. The second amendment would exempt the six rapid hull inflatable rescue boats from the U.S. built requirement contained in section 665 of title 14, United States Code. By unanimous consent Mr. Davis amended the Studds amendment to make it clear that if someone in the United States could build the rescue boats, the exemption would not apply. The amendment, as amended, was adopted by voice vote.

The Honorable Frank Pallone, Jr. offered an amendment to the substitute that would require the Coast Guard to reactivate the Vessel Traffic Services System in the New York harbor area and on the Lower Mississippi River near New Orleans, Louisiana. The amendment carried by voice vote.

The Honorable Nita M. Lowey offered an amendment that would expand the Coast Guard's authority to suspend or revoke a seaman's license if it is determined that the mariner has a current or chronic alcohol problem. The amendment was adopted by voice vote.

The Honorable Jolene Unsoeld offered an amendment to the substitute that would require a master or other person in charge of a documented vessel to report to the Coast Guard complaints of sexual offenses on board ships. The amendment carried by voice vote.

Mr. Davis offered an amendment on behalf of the Honorable Claudine Schneider to authorize the transfer of the Block Island Southeast Lighthouse to a nonprofit organization. The amendment carried by voice vote.

The Jones substitute, as amended, was approved by a voice vote, and H.R. 2459, as amended, was ordered reported.

Section-by-Section Analysis

Section 1. Short title

This Act is entitled the "Coast Guard Authorization Act of 1989."

TITLE I—AUTHORIZATIONS

Section 101. Authorization of funds for fiscal year 1990

This section authorizes funds for Coast Guard expenses in various budget categories for Fiscal Year 1990 in accordance with the following table:

[In millions of dollars]

Account	1988 (actual)	1989 (reflects P.L. 100–457 and P.L. 100–690)	1990 (administration request)	1990 (proposed authorization)
Operating expenses	1,909.1	[1] 2,122.4	[2] 2,252.2	2,285.2
AC&I	267.0	[3] 435.8	682.3	645.05
Research and development	19.0	18.8	19.0	24.0
Bridge alteration	0.9	13.5	.....	2.3
Retired pay	386.7	410.8	420.8	420.8

[1] Includes $140 million "services-in-kind," $60 million "cash," and $6 million for 200 LEDETS from the DOD and $16 million from the Anti-Drug Abuse Act of 1988.
[2] Includes $10 million requested in the President's budget, but not contained in the administration's proposed authorization bill.
[3] Includes $50.3 from Military Construction Appropriations and $100 million from the Anti-Drug Abuse Act of 1988.

Paragraph (1) authorizes $2,285,200,000 for operating expenses for Fiscal Year 1990. This number exceeds the amount proposed by the President for expenditure from this account during 1990 by $33 million. However, it is $43 million more than the amount contained in the Administration's proposed Coast Guard Authorization bill. The additional $10 million was added by President Bush to the Reagan budget and is intended to allow the Coast Guard to increase its drug interdiction activities in Fiscal Year 1990, but was inadvertently deleted from the Administration's proposed authorization bill. The amount authorized in H.R. 2459 for operating expenses is approximately $184.7 million more than the amount au-

thorized for 1989 and $162.8 millio more than the amount appropriated for that year.

Paragraph (2) authorizes $645,050,000 for acquisition, construction, and improvements (AC&I) for 1990. This number is $37,250,000 less than President's request, but $209,250,000 more than the amount appropriated for 1989, and $297,050,000 more than the 1989 authorization. The decrease form the President's request is the result of the Committee transferring $33 million to the operating expenses account and $5 million to the research and development account.

The major difference between the amount requested for AC&I by the President and both the 1989 authorization and appropriations bills is the addition of $244 million for the acquisition of a replacement polar icebreaker. The $244 million allocated for the icebreaker is apportioned as follows:

(A) $151,000,000 to procure at least 20 high speed patrol boats not later than 6 months after the date of enactment of the Act;

(B) $24,000,000 to mount an Airborne Early Warning radar on a C–130 aircraft;

(C) $20,000,000 to rehabilitate the Coast Guard Cutter *Mackinaw*;

(D) $10,000,000 to acquire 12 antisubmarine warfare trainers for the Coast Guard's 378-foot cutters;

(E) $1,000,000 to continue plans to procure a polar class icebreaker;

(F) $33,000,000 transferred to the Operating Expenses account to be used to increase the number of active duty personnel; and

(G) $5,000,000 transferred to the Research and Development Account to be used to research techniques to improve the clean up of oil and hazardous material spills.

Finally, subparagraph (F) authorizes $750,000 to procure six rigid-hulled inflatable jet-propelled emergency rescue boats suitable for carrying out search and rescue missions in shallow waters. This subparagraph waives the provisions of section 665 of title 14, United States Code, which states that no Coast Guard vessel or major component of a Coast Guard vessel may be constructed in a foreign shipyard, for this procurement.

Paragraph (3) authorizes $24,000,000 for the Coast Guard's research, development, test, and evaluation program. This amount is $5 million more than the President's 1990 request and the 1989 authorization. It is $5.2 million more than the 1989 appropriation. The additional $5 million represents a transfer from the AC&I account and shall be used to examine, investigate, and develop methods and techniques for the prevention and mitigation of oil and hazardous material spills on the navigable waters of the United States, including Arctic waters.

Paragraph (4) authorizes $420,800,000 to pay obligations to retired Coast Guard personnel. This amount is the same as that requested by the Administration.

Paragraph (5) authorizes $2,300,000 for the Truman-Hobbs bridge alteration or removal program. These monies are needed to complete the alteration of the Burlington Northern Railroad bridge in

Portland, Oregon and to continue alteration of the Norfolk Southern Railroad bridge in Hannibal, Missouri. The Committee notes that legislation tranferring the Coast Guard's entire bridge administration program to the U.S. Army Corps of Engineers (H.R. 1755) was ordered reported by the Committee on June 21, 1989. When this legislation is enacted, any unexpended appropriations in this account will be transferred to the Army Corps.

Section 102. Authorized levels of military strength and military training for fiscal year 1990

Subsection (a) authorizes a Coast Guard end-of-year strength for military personnel of 39,299, which is 1,100 more than the President requested and 178 more than the 1989 authorization. In the wake of the *Exxon Valdez* oil spill it is imperative that the Coast Guard improve its oil spill prevention and response capabilities. Therefore, the Committee is authorizing this higher number of military personnel to allow the Coast Gaurd to reestablish its Atlantic Strike Team in Elizabeth City, North Carolina, and to create another strike team on the west coast (for a total of four strike teams), as well as to increase the number of personnel assigned to marine safety and local Captain of the Port offices. Personnel assigned to these offices respond to oil and hazardous chemical spills as well as inspect oil and hazardous chemical facilities and vessels to insure compliance with Coast Guard regulations. The Committee would also like to encourage the Coast Guard to use a portion of the 1,100 personnel to increase its drug interdiction efforts.

Subsection (b) also authorizes the student year levels for various categories of Coast Guard training for Fiscal Year 1988 as follows:

1—For recruit and special training: 2757 student years;

2—For flight training: 110 student years;

3—For professional training in military and civilian institutions: 390 student years; and

4—For officer acquisition: 900.

A student year is defined as the product of the number of students scheduled to attend each course in the category multiplied by the course length expressed in fractions of years (i.e., course length in weeks divided by weeks). The proposed student training levels are equal to the Administration's request, except for recruit training which has been increased by 170 student years. This increase is intended to allow the Coast Guard to recruit and train the additional 1,100 active duty military personnel authorized in section 102(a).

Section 103. Acquisition of additional icebreakers

This section authorizes the Secretary of the department in which the Coast Guard is operating to acquire additional icebreakers by either a bareboat charter or by a direct purchase. The Secretary is required to determine which method of acquisition is in the best interest of the United States and the appropriate terms and conditions of any agreement to acquire icebreakers. Finally, this section requires that any icebreaker acquired under the authority of this section be constructed in the United States.

Section 104. Modification and extension of Rules of the Road Advisory Council and extension of Towing Safety Advisory Committee

Subsection (a) changes the name of the Rules of the Road Advisory Council to the Navigation Safety Advisory Council. In addition, this subsection expands the charter of the Council to include advice and recommendations on matters relating to the prevention of collisions, rammings, and groundings, including navigation regulations and equipment, routing measures, marine information, diving safety, and aids to navigation systems. Finally, this subsection extends the termination date for the Council until September 30, 1995, and directs that the Council meet at least twice each calendar year.

Subsection (b) extends the termination date of the Towing Safety Advisory Committee to September 30, 1995. This extension, along with the extension authorized under subsection (a), will insure that the authorization for all advisory committees under the purview of the Coast Guard expire at the same time.

Section 105. Commercial Fishing Industry Vessel Advisory Committee appointments

This section amends section 4508 of title 46, United States Code, to ensure that the Secretary of Transportation does not solicit or take into account the political affiliation of potential members of the Commercial Fishing Industry Vessel Advisory Committee when making appointments to the Advisory Committee. The Committee strongly believes that a person's political affiliation has no bearing on his or her ability to serve on this Advisory Committee.

TITLE II—PROGRAMS

Section 201. Technical amendments to the act to prevent pollution from ships

Subsection (a) corrects inadvertent errors in the Act to Prevent Pollution from Ships (APPS) by substituting the words "Annexes I and II" for "Annex V" in section 6(c)(1) of APPS. This change is necessary because section 6(c)(1) deals with reception facilities for oil and noxious liquids, the subject of these annexes, not garbage, the subject of Annex V.

Paragraphs (2) and (3) add "or of this Act" to sections 8(c)(1) and 8(e)(2) of APPS. Both of these provisions concern inspections for violations of the International Conventions for the Prevention of Pollution from Ships (MARPOL). This section extends the inspections to include inspections for violations of APPS.

Section 202. Technical corrections relating to safeguarding military whistleblowers

This section makes several changes to section 1034 of title 10, United States Code, which relate to the protection of military whistleblowers. When section 1034 was enacted in 1988, it did not provide for the proper relationship between the Secretary of Transportation, the Inspector General (IG), and a Coast Guard member, because it was only concerned with instances when the Coast Guard

is operating as a service of the Navy, not as part of the Department of Transportation where it normally operates.

Paragraph (1) clarifies that the Department of Transportation Inspector General (DOTIG) is required to investigate allegations of personnel actions prohibited by section 1034 when the Coast Guard is in the Department of Transportation (DOT) and the Department of Defense Inspector General (DODIG) when it is operating as a service in the Navy. Paragraph (2) makes it clear that the DOTIG shall report the findings of the investigation to the Secretary of Transportation and the DODIG report to the Secretary of Defense.

Section 1034(c)(6) of title 10, United States Code, requires the IG to notify the Secretary of Defense if the report on the allegation cannot be completed within 90 days. Paragraph (3) clarifies that the DOTIG is required to make the same notification when the Coast Guard is operating in the DOT.

Paragraph (4) clarifies that an administrative review by a board for the correction of military records provided for by section 1034(e) should be reviewed by either the Secretary of Defense or the Department of Transportation depending on which department the Coast Guard is operating in.

Section 203. Miscellaneous provisions concerning continuity of grade, appointment, and retirement of Coast Guard personnel

Paragraph (1) provides that a vice admiral who is selected for Commandant will retain precedence on the active duty promotion list, date of rank, grade, pay, and allowances at the rank of vice admiral. Under current law, a vice admiral who is selected to become Commandant would lose precedence to vice admirals and rear admirals with an ealier date of rank. If the pay cap were raised, this could result in loss of pay.

Paragraph (2) removes the requirement that appointments to lieutenant (junior grade) and lieutenant be confirmed by the Senate and allows appointments to be made solely by the President. This will improve the efficiency of the promotion process and brings the Coast Guard into conformity with the Secretary of Defense.

Paragraph (3) amends section 289(c) of title 14, United States Code to require the Coast Guard to select not less than 50 percent of the captains eligible for promotion to admiral for continuation in the service. Under current law, not less than 75 percent of the captains eligible for promotion to admiral must be selected, i.e., only 25 percent of the captains can be involuntarily retired. This statute along with the large number of captains who entered the Coast Guard in the late 1960's and the early 1970's has combined to severely impede the promotion flow from the grade of lieutenant commander through captain. This section will provide the Coast Guard the flexibility to manage the number of captains so that promotions from the lowest grades are not impeded and an adequate pool of captains is maintained to comete for rear admiral.

Paragraph (4) gives the Secretary of Transportation the authority to adjust the appointment date of a reserve officer if there is a delay in finding the officer physically fit for promotion and the delay is beyond the control of the officer. This provision only applies prospectively.

Paragraph (5) codifies the existing Coast Guard administrative practice of not separating reserve officers with under 18 years of service through captain's retention boards. This provision is designed to protect captains with under 18 years of service from competing with more senior captains for retention in the Coast Guard.

Section 204. Authorization of Junior Reserve Officers Training Program Pilot Program

This section authorizes the Coast Guard to establish and maintain a Junior Reserve Officers Training Corps (JROTC) program in cooperation with the Maritime and Science Technology Academy of the Dade County Public School System. The program shall be entitled the "Claude Pepper Junior Reserve Officers Training Program," in honor of the late Senator and Congressman from Florida. This represents the Coast Guard's first JROTC program and is modeled after existing programs within the Department of Defense. This section authorizes the Coast Guard to provide assistance in developing the pilot program's curriculum, as well as to provide instructors, and uniforms and other course materials. In an effort to reduce the costs of this pilot program, the Coast Guard is authorized to hire retired or reserve Coast Guard personnel to serve as instructors and administrators. However, reserve or retired personnel employed by the pilot program may not be paid more than one-half of the diffence between their retired pay and the amount they would be paid if they were on active duty.

Section 205. Limitations on contracting of Coast Guard services

This section prohibits an employee of the United States from entering into a contract for the performance of any function being performed by Coast Guard personnel as of January 1, 1989, unless three conditions are met. Specifically, the conditions are: (1) an Office of Management and Budget Circular A–76 study is completed; (2) the Secretary of Transportation has completed a study of how the proposed contract will affect the multimission capabilities of the Coast Guard; (3) copies of these two reports have been submitted to the House Committee on Merchant Marine and Fisheries and the Senate Committee on Commerce, Science, and Transportation. The Committee has received reports that the Coast Guard may be moving beyond areas that it has normally contracted out, e.g., food services, security, and grounds maintenance, and is considering contracting out functions which are central to the Coast Guard's mission, e.g., aids to navigation. The Committee strongly believes that the Coast Guard's aids to navigation program is an inherently governmental responsibility, and as such should not be contracted out under the A–76 program.

Section 206. Local hire

This section adds a new section to the end of chapter 17 of title 14, United States Code, which will require that Coast Guard contracts in states with unemployment rates above the national average be performed with local state residents. Local resident is defined as a resident of a particular state or an individual who commutes daily to the state. Individuals who are temporary residents of a state only for the purpose of fulfilling a Coast Guard contract

do not qualify as local residents under this section. The Secretary of Transportation may waive this requirement for either national security or economic reasons.

Section 207. Report of control of exotic species

This section requires that the Secretary of Transportation report on the options available to control the infestation of the waters of the United States, including the Great Lakes, by exotic species transported in vessel ballast water. Exotic species are defined as nonnative fish, mollusks, crustaceans, zooplankton, and other aquatic organisms, other than sea lampreys. The report must be submitted to Congress within six months of the date of enactment of this Act.

In compiling information for this report, the Secretary shall consult with the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, the Environmental Protection Agency, the Great Lakes Fishery Commission, state fish and wildlife agencies, the American Fisheries Society, and any other individuals or groups that the Secretary deems appropriate. This report should contain a complete discussion of the monetary costs, efficacy, and environmental risks associated with each method of controlling ballast water introductions. Control methods discussed in the report should include: (1) ballast water exchange at sea; (2) treatment of ballast water with chlorine or some other toxicant; (3) installation of filters on ballast water pumps; and (4) coating vessel ballast water tanks with antifouling paint. The Secretary should also be aware that different control methods may be required for different parts of the country. For example, ballast water exchange at sea may be effective in controlling the introduction of marine exotic species in the fresh waters of the Great Lakes, but it may not be effective in the saline waters of many U.S. ports. Finally, given the international nature of this problem, the Secretary is urged to bring this matter before the International Maritime Organization.

Section 208. Cost of security at Kennebunkport, Maine

This section requires the Secretary of Transportation to identify and report on the costs of providing security for the President at Kennebunkport, Maine, and to seek reimbursement for those costs from the Secretary of the Treasury within six months of the date of enactment of this Act.

Section 209. Vessel traffic service restoration; expansion

Subsection (a) directs the Secretary of the Department in which the Coast Guard is operating to establish a vessel traffic service (VTS) in the New York harbor area and on the Lower Mississippi River in New Orleans under the authority of title I of the Ports and Waterways Safety Act of 1972 (Public Law 92-340, 86 Stat. 424). Vessels that operate in those areas shall be required to participate in the vessel traffic systems. The Committee anticipates that the Coast Guard will limit the types of vessels required to participate in the systems to those vessels subject to the radiotelephone requirement of the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1203(a)). In addition, the Committee anticipates that the Coast Guard will consult with local persons who are knowl-

edgeable with regard to vessel operations in those areas when establishing the systems.

Subsection (b) requires the Secretary of the Department in which the Coast Guard is operating to submit a report to Congress that identifies those ports and coastal channels through which large quantities of oil or hazardous cargoes are transported within six months of the date of enactment of this Act. The report should also identify the costs of establishing vessel traffic systems for those ports and coastal channels. The Committee intends the term coastal channel to encompass channels along the coast, e.g., Santa Barbara Channel, and bodies of water that connect the open ocean and inland ports, e.g., the Strait of Juan de Fuca, Long Island Sound, and Chesapeake Bay.

Section 210. Law enforcement surveillance

Paragraph (1) requires the Secretary of Transportation to identify the needs and cost of outfitting existing Coast Guard aircraft with proper surveillance and reconnaissance equipment and report to Congress within six months of the date of enactment of this Act. The Committee is aware that the Coast Guard's ability to photograph aircraft suspected of smuggling drugs is limited by incomplete or nonexistent equipment on some of its HU-25 Falcon aircraft. Therefore, the Committee believes that the report mandated by this subsection is an important first step towards improving the Coast Guard's drug interdiction capability.

Paragraph (2) requires the Secretary of Transportation, in consultation with the Secretary of the Defense, to establish and submit to Congress a plan for closing the gaps in radar coverage along the Gulf and southeast Atlantic coasts.

Section 211. Numbering of vessels

This section amends section 2101 of title 46, United States Code, by defining numbered vessel as a vessel that is numbered under chapter 123 of title 46.

Section 212. Constructive seizures

This section directs the Secretaries of Transportation and the Treasury to develop a procedure for constructive seizure of vessels operating in the coastwise trade. The constructive seizure procedure should allow the owners or operators of vessels seized for violations of the drug laws to continue to operate the vessel while the owner appeals the seizure through the appropriate administrative procedures. This section is designed to protect innocent owners from the devastating economic effects of the physical seizure of a vessel.

Section 213. Study evaluating double hulls and double bottoms

Subsection (a) directs the Secretary of Transportation to submit a study to Congress within one year of the date of enactment of this Act that: (1) evaluates the worldwide operating and environmental safety record of vessels with double hulls or bottoms and vessels without those features; (2) evaluates the operational and environmental safety records of barges operated on the navigable waters of the United States equipped with double bottoms or hulls and

barges without those features; (3) assesses the costs and benefits of requiring double hulls or bottoms on all new tankers or barges constructed in the United States.

Subsection (b) authorizes the Secretary to consult with the American Bureau of Shipping, the American Institute of Merchant Shipping, the National Ocean Industries Association, the American Waterways Operators, the Oceanic Society, and any other interest group the Secretary deems appropriate when conducting the study mandated in subsection (a). The Secretary is also authorized to incorporate the results of past studies conducted by the Coast Guard, the Office of Technology Assessment, as well as other respected organizations, in the study.

Section 214. Users fees report clarification

This section amends section 664(c) of title 14, United States Code, to clarify that the report required under section 664(c) applies to user fees collected under any law, not just section 664. This section was prompted by the incomplete report that the Committee received from the Secretary of Transportation in January 1989. In that report, the Secretary stated that the Coast Guard had collected about $300 in user fees in 1988. Since 46 C.F.R. 76.43, inter alia, allows the Coast Guard to charge $100 for each of the thousands of recreational vessel documents it issues each year, this figure is obviously incomplete. An itemized accounting of all of the user fees currently collected by the Coast Guard is essential for the Committee deliberations on the Administration's proposal to impose additional Coast Guard user fees.

Section 215. Review of criminal records in issuing and reviewing seamen licenses

Section 215 amends title 46 of the United States Code to require the Secretary of Transportation to review the criminal records of each individual applying for a license. The Secretary would also be required to review any criminal records of a person seeking to renew a license. While a criminal conviction would not in itself be grounds for denial, suspension, or revocation of a license, the Committee believes the Secretary should have information on any criminal record of an individual in examining the character of that individual.

Section 216. Board for the Corrections of Military Records

This section requires the Secretary of Transportation to amend the regulations governing the Coast Guard's Board for the Correction of Military Records (BCMR) so that appeals are processed expeditiously and that final decisions are made within 10 months of their receipt by the BCMR. The Secretary is required to maintain a staff and a panel of potential BCMR members that is adequate to ensure compliance with this section.

The Committee first became aware of problems with the BCMR when six present and former Coast Guard personnel filed a class action suit against the BCMR and the General Council of the Department of Transportation. the plaintiffs in that suit maintained that their applications for relief were not considered in a reasonable period of time (some of the plaintiff's applications were pending

over 2½ years). Delays of this length are problematic because Coast Guard members often are not aware that there is a significant problem with their military record until they are passed over for promotion because of it. If a member's appeal is not acted on within a year the officer will likely be passed over for promotion again. In many cases this will mean an end to the officer's Coast Guard career.

The BCMR suit was settled out of court in April of 1988. Under the terms of this settlement, the Coast Guard and the Department of Transportation agreed to take several actions designed to improve the efficiency of the BCMR. However, the agreement did not address the central problem with the BCMR, an insufficient number of BCMR staff attorneys capable of processing applications for relief expeditiously. Therefore, this section directs the Secretary of Transportation ensure that adequate personnel are assigned to the BCMR to insure that applications are processed expeditiously.

Section 217. Consideration of MarAd vessels

This section requires the Secretary of Transportation or the Commandant of the Coast Guard to consider vessels held by the Secretary as a result of a title XI default (title XI of the Merchant Marine Act of 1936) before acquiring additional Coast Guard vessels. The intent of this section is to reduce the inventory of title XI vessels and allow the Coast Guard to acquire suitable vessels at a significant savings to the Government. When carrying out the provisions of this section, the Secretary and the Commandant should consider the cost of the acquisition of a title XI vessel relative to the cost of a new vessel and how well the title XI vessel meets the Coast Guard's requirements. This section shall remain in effect until specifically repealed.

Section 218. Prohibition against reduction in services

This section is intended to prohibit the Coast Guard from reducing any activity carried out in Fiscal Year 1990 below the level in Fiscal Year 1989 to increase its drug interdiction activities. The Committee is very concerned with the recent Coast Guard trend of reducing funding and personnel dedicated to certain program areas, e.g., search and rescue, marine environmental protection, and marine safety, in order to increase funding and personnel dedicated to drug law enforcement.

Section 219. Suspension and revocation of seaman's licenses for alcohol abuse

Section 219 provides that the Secretary of Transportation shall suspend or revoke the license or certificate of registry of any person who is a current or chronic abuser of alcohol. In determining whether to revoke or suspend a seaman's papers the Secretary shall consider the severity of abuse and the amount of time necessary to rehabilitate the individual. A suspension shall be terminated only after the individual demonstrates that he is no longer a chronic or current alcohol abuser. The Secretary shall conduct whatever investigation the Secretary deems necessary whenever the Secretary receives information regarding alcohol related misconduct by a license holder.

Section 220. Requirement to report sexual offenses

This section requires the master or other person in charge of a documented vessel to report a complaint of a sexual offense prohibited by the Sexual Abuse Act of 1986, and imposes a civil penalty of $5,000 for failure to comply with this provision. The provision was prompted by a General Accounting Office report that found that the Coast Guard has no specific requirements for the reporting of shipboard assaults and other offenses covered by the Sexual Abuse Act. Reports from women mariners confirmed that such incidents are rarely reported to the Coast Guard or other law enforcement authorities. This provision should serve to promote greater awareness of the Sexual Abuse Act within the maritime community, it should provide information on the circumstances and extent of such offenses, and it could serve to increase the willingness of victims to come forward.

Section 221. Southeast lighthouse preservation

This section directs the Secretary of the department in which the Coast Guard is operating to convey all right, title, and interest of the United States in the Block Island Southeast Lighthouse to the Block Island Southeast Lighthouse Foundation. For the purposes of this section, Block Island Southeast Lighthouse is defined as the lighthouse and attached keeper's dwelling, several ancillary buildings, a fog signal, and land necessary to carry out the purposes of this section located in the town of New Shoreham, Rhode Island. The purpose of the transfer is to establish and maintain a nonprofit center for the public at the lighthouse for the interpretation and preservation of the culture of the U.S. Coast Guard and Block Island's maritime history.

The conveyance of the lighthouse shall be made without payment of consideration, subject to the condition that title shall revert immediately to the United States if the property ceases to be used for the purposes of this section, and subject to any other terms the Secretary may impose. The conveyance shall include provisions necessary to insure that the lighthouse shall continue to operate as an aid to navigation, that the Foundation does not interfere with any navigational aids at the lighthouse without the Coast Guard's permission, and that the Coast Guard retains the right to maintain or modify the property to insure its continued operation as a navigational aid.

Inflationary Impact Statement

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee has assessed the potential for inflationary impact and has concluded that the potential, if any, is negligible.

Cost of the Legislation

Pursuant to paragraph (d) of clause 7 of rule XIII of the Rules of the House of Representatives, the provisions of this clause do not apply where a cost estimate and comparison prepared by the Direc-

tor of the Congressional Budget Office has been included in the report.

COMPLIANCE WITH CLAUSE 2(l)(3), RULE XI

With respect to the requirements of clause 2(l)(3) of rule XI of the Rules of the House of Representatives:

(A) A hearing was held on March 9, 1989, regarding the Fiscal Year 1990 Coast Guard budget and other aspects of Coast Guard operations.

(B) The requirements of section 308(a) of the Congressional Budget Act of 1974 are not applicable to this legislation.

(C) The Committee has not received a report from the Committee on Government Operations of oversight findings and recommendations arrived at pursuant to clause 2(b)(2) of Rule X.

(D) The Director of the Congressional Budget Office has furnished the Committee with an estimate and comparison of costs for H.R. 2459 as reported, pursuant to section 403 of the Congressional Report Act of 1974. That estimate follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 10, 1989.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 2459, the Coast Guard Authorization Act of 1989.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 2459.

2. Bill title: Coast Guard Authorization Act of 1989.

3. Bill status: As ordered reported by the House Committee on Merchant Marine and Fisheries, June 21, 1989.

4. Bill purpose: H.R. 2459 would authorize fiscal year 1990 appropriations for activities of the U.S. Coast Guard (USCG). The bill would authorize $2,285 million for USCG operating expenses, $645 million for acquisition, construction, and improvement, $24 million for research, development, test and evaluation activities, and $2.3 million for alteration of bridges. An additional $421 million would be authorized for retirement pay to eligible personnel.

H.R. 2459 would also mandate various studies and make technical amendments to statutes governing USCG activities. In addition, the bill would require the USCG to establish vessel traffic services in the New York Harbor area and on the Lower Mississippi River in New Orleans.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1990	1991	1992	1993	1994
Authorization level	2,957				
Estimated outlays	1,954	517	292	129	65

Including outlays from prior years' appropriations, total outlays in 1990 would be about $2.6 million, assuming appropriation of the authorized amounts.

The authorization for Coast Guard retirement pay has not been included in the above table because such pay is an entitlement under current law.

The costs of this bill fall within budget function 400.

Basis of estimate: For the purposes of this estimate, it is assumed that the full amounts authorized for USCG programs will be appropriated for fiscal year 1990. The authorization levels are those specified in the bill.

H.R. 2459 includes no specific authorization for the costs of establishing vessel traffic services in New York and New Orleans, so CBO assumes that these costs would be covered by the authorizations for operating expenses and acquisition, construction, and improvements. Based on information provided by the USCG, we estimate that the cost of opening vessel traffic services in New Orleans would be $15 million to $20 million in fiscal year 1990, while the cost of opening services in New York would be about $11 million. In both cases, these would be mostly one-time costs to acquire equipment and land. The Dire Emergency and Urgent Supplemental Appropriation for fiscal year 1989 (Public Law 101-45) directed the USCG to establish services in New York and earmarked $5.6 million of the fiscal year 1989 operating expenses appropriation for this purpose.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Deborah Reis and Marjorie Miller.

10. Estimate approved by: C.G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

Departmental Reports

The Committee on Merchant Marine and Fisheries received the following report from the Department of Transportation dated June 20, 1989.

U.S. Department of Transportation,
Washington, DC, June 20, 1989.

Hon. Walter B. Jones,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, DC.

Dear Mr. Chairman: Your Committee is about to mark up H.R. 2459, a bill "To authorize appropriations for the Coast Guard for fiscal year 1990, and for other purposes."

The Department appreciates the cooperation shown by the Subcommittee on Coast Guard and Navigation in developing this important legislation. The bill includes several provisions the Administration sought, including the authority to acquire additional icebreaker resources by either entering into a multi-year lease to acquire those icebreakers under bareboat charter provisions or by direct purchase. Nevertheless, the Department has several important concerns about the bill that we hope the Committee will consider in its mark-up.

The President requested funds in Coast Guard's fiscal year (FY) 1990 budget for procurement of a replacement polar icebreaker. The replacement icebreaker is a critical national need, but the bill, as drafted, diverts the funds requested for the icebreaker procurement to other procurements not requested by the Administration. Many of these other procurements are unwarranted at this time. Since the bill provides line item authorizations for these other procurements, it could effectively ensure that Coast Guard will not be able to proceed with procurement of the replacement icebreaker in FY 1990, since it would not provide sufficient unearmarked authorizations for Coast Guard's Acquisitions, Construction, and Improvement (AC&I) account for the Appropriations Committees to fund all the AC&I items requested in the President's Budget, including the icebreaker. The Department urges the Committee to include authorizations in its bill in accordance with the President's request, especially for the AC&I account.

The Department of Transportation opposes sections 9 and 10 of the bill because they take away management's ability to make management decisions on how to operate most cost efficiently. As drafted, section 9 of the bill, concerning contracting out of Coast Guard functions, constitutes an unconstitutional legislative veto of executive action under *Immigration and Naturalization Service* v. *Chadha,* 103 S. Ct. 2764 (1983). The Subcommittee Chairman discussed needed language changes with Secretary Skinner and, based on that discussion, we believe that the Subcommittee may be agreeable to the necessary text changes.

Section 17 of the bill would provide for constructive seizure of vessels that are involved strictly in domestic trade. The Department is in the final stages of promulgating regulations, required by the Omnibus Anti-Drug Act of 1988, dealing with the expedited return of conveyances whose owners establish lack of knowledge that the conveyance was being used in violation of the law. We believe there should be a sufficient period to evaluate those regulations before Congress expands restrictions on Federal law enforcement agencies engaged in the interdiction of illegal drugs into this country.

Thank you for the opportunity to comment on this important legislation. The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,

PHILLIP D. BRADY.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 5 OF THE INLAND NAVIGATIONAL RULES ACT OF 1980

(33 U.S.C. 2073)

* * * * * * *

SEC. 5. (a) The Secretary shall establish a [Rules of the Road Advisory Council] *Navigation Safety Advisory Council* (hereinafter referred to as the Council) not exceeding 21 members. To assure balanced representation, members shall be chosen, insofar as practical, from the following groups: (1) recognized experts and leaders in organizations having an active interest in the Rules of the Road and vessel and port safety, (2) representatives of owners and operators of vessels, professional mariners, and recreational boaters, and the recreational boating industry, (3) individuals with an interest in maritime law, and (4) Federal and State officials with responsibility for vessels and port safety. Additional persons may be appointed to panels of the Council to assist the Council in the performance of its functions. The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Council.

[(b) The Council shall advise, consult with, and make recommendations to the Secretary on matters relating to any major proposals for changes to the Inland Rules. The Council may recommend changes to the Inland Rules and International Regulations to the Secretary. Any advice or recommendation made by the Council to the Secretary shall reflect the independent judgment of the Council on the matter concerned. The Council shall meet at the call of the Secretary, but in any event not less than once during each calendar year. All proceedings of the Council shall be public, and a record of the proceedings shall be made available for public inspection. The Council is authorized to make available to Congress any information, advice, and recommendations which the Council is authorized to give to the Secretary.]

(b) The Council shall advise, consult with, and make recommendations to the Secretary on matters relating to the prevention of collisions, rammings, and groundings, including the Inland Rules of the Road, the International Rules of the Road, navigation regulations and equipment, routing measures, marine information, diving safety, and aids to navigation systems. Any advice or recommendation made by the Council to the Secretary shall reflect the independent judgment of the Council on the matter concerned. The Council shall meet at the call of the Secretary, but in any event not less than twice during each calendar year. All proceedings of the Council shall be public, and a record of the proceedings shall be made for public inspection.

* * * * * * *

(d) Unless extended by subsequent Act of Congress, the Council shall terminate on September 30, [1990] *1995.*

THE ACT OF OCTOBER 6, 1980

(33 U.S.C. 1231a(e))

AN ACT To establish a Towing Safety Advisory Committee in the Department of Transportation

* * * * * * *

(e) Unless extended by subsequent Act of Congress, the Committee shall terminate September 30, [1990] *1995.*

TITLE 46, UNITED STATES CODE

* * * * * * *

Subtitle II—Vessels and Seamen

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PART A—GENERAL PROVISIONS

CHAPTER 21—GENERAL

* * * * * * *

§ 2101. General definitions

In this subtitle—

(1) * * *

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(17) "nautical school vessel" means a vessel operated by or in connection with a nautical school or an educational institution under section 13 of the Coast Guard Authorization Act of 1986.

(17a) numbered vessel means a vessel for which a number has been issued under chapter 123 of this title.

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PART B—INSPECTION AND REGULATION OF VESSELS

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CHAPTER 45—UNINSPECTED COMMERCIAL FISHING INDUSTRY VESSELS

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§ 4508. Commercial Fishing Industry Vessel Advisory Committee

(a) * * *

(b)(1) The Committee shall consist of seventeen members with particular expertise, knowledge, and experience regarding the commercial fishing industry as follows:

(A) * * *

* * * * * * *

(2) At least once each year, the Secretary shall publish a notice in the Federal Register and in newspapers of general circulation in coastal areas soliciting nominations for membership on the Committee, and, after timely notice is published, appoint the members of the Committee. An individual may be appointed to a term as a member of the Committee more than once. *The Secretary may not seek, nor take into account, information concerning the political affiliation of individuals considered for appointment to the Committee.*

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PART E—MERCHANT SEAMAN LICENSES, CERTIFICATES, AND DOCUMENTS

CHAPTER 71—LICENSES AND CERTIFICATES OF REGISTRY

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§ 7101. Issuing and classifying licenses and certificates of registry

(a) * * *

* * * * * * *

(f) The Secretary shall conduct a review of the criminal record of each individual who applies for a license under this section.

[(f)] *(g)* The Secretary may issue certificates of registry in the following classes to applicants found qualified as to character, knowledge, skill, and experience:

(1) pursers.

(2) medical doctors.

(3) professional nurses.

* * * * * * *

§ 7109. Renewal of licenses

(a) A license issued under this part may be renewed for additional 5-year periods.

(b) The Secretary shall conduct a review of the criminal record of each holder of a license issued under this part who applies for renewal of that license under this section.

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CHAPTER 77—SUSPENSION AND REVOCATION

Sec.
7701. General.
7702. Administrative procedure.
7703. Bases for suspension or revocation.
7704. Dangerous drugs as grounds for revocation.
7704a. Alcohol abuse as grounds for revocation.
7705. Subpenas and oaths.

* * * * * * *

§ 7704a. Alcohol abuse as grounds for revocation

(a) The Secretary shall suspend or revoke a license, certificate of registry, or merchant mariner's document if the Secretary determines the holder is a current or chronic abuser of alcohol.

(b) Any determination by the Secretary to suspend or revoke a license, certificate of registry, or merchant mariner's document under this section shall be based on the severity of abuse of alcohol by the holder of the length of time necessary to control that abuse.

(c) The Secretary shall conduct necessary investigations to determine if a holder is a current or chronic abuser of alcohol, if the Secretary receives information regarding any alcohol-related misconduct of the holder.

(d) A suspension of a license, certificate of registry, or merchant mariner's document under subsection (a) shall remain in effect until the former holder provides sufficient proof that the former holder is no longer a current or chronic abuser of alcohol.

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PART G—MERCHANT SEAMEN PROTECTION AND RELIEF

CHAPTER 101—GENERAL

Sec.
10101. Definitions.
10102. Designations and duties of shipping commissioners.
10103. Reports.
[10104. Regulations.]
10104. Requirement to report sexual offenses.

* * * * * * *

[§ 10104. Regulations

[The Secretary may prescribe regulations to carry out this part.]

§ 10104. Requirement to report sexual offenses

(a) A master or other individual in charge of a documented vessel shall report to the Secretary a complaint of a sexual offense prohibited under chapter 109A of title 18, United States Code.

(b) A master or other individual in charge of a documented vessel who knowingly fails to report in compliance with this section is liable to the United States Government for a civil penalty of $5,000.

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THE ACT TO PREVENT POLLUTION FROM SHIPS

(33 U.S.C. 1901–1912)

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SEC. 6. (a) * * *

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(c)(1) If reception facilities of a port or terminal meet the requirements of [Annex V] *Annex I and Annex II* to the Convention and the regulations prescribed under subsection (a)(1), the Secretary shall, after consulation with the Administrator of the Environmental Protection Agency, issue a certificate to that effect to the applicant.

(2) If reception facilities of a port or terminal meet the requirements of Annex V to the Convention and the regulations prescribed under subsection (a)(2), the Secretary may, after consultation with appropriate Federal agencies, issue a certificate to that effect to the person in charge of the port or terminal.

(3) A certificate issued under this subsection—

(A) is valid until suspended or revoked by the Secretary for cause or because of changed conditions; and

(B) shall be available for inspection upon the request of the master, other person in charge, or agent of a ship using or intending to use the port or terminal.

(4) The suspension or revocation of a certificate issued under this subsection may be appealed to the Secretary and acted on by the Secretary in the manner prescribed by regulation.

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SEC. 8. (a) * * *

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(c)(1) This subsection applies to inspections relating to possible violations of Annex I or Annex II to the Convention *or of this Act.* by any seagoing ship referred to in section 3(a)(2) of this Act.

(2) While at a port or terminal subject to the jurisdiction of the United States, a ship to which the MARPOL Protocol applies may be inspected by the Secretary—

(A) to verify whether or not the ship has discharged a harmful substance in violation of the MARPOL Protocol or this Act; or

(B) to comply with a request from a party to the MARPOL Protocol for an investigation as to whether the ship may have discharged a harmful substance anywhere in violation of the MARPOL Protocol. An investigation may be undertaken under this clause only when the requesting party has furnished sufficient evidence to allow the Secretary reasonably to believe that a discharge has occurred.

If an inspection under this subsection indicates that a violation has occurred, the investigating officer shall forward a report to the Secretary for appropriate action. The Secretary shall undertake to notify the master of the ship concerned and, acting in coordination with the Secretary of State, shall take any additional action required by Article 6 of the Convention.

* * * * * * *

(e)(1) The Secretary may inspect at any time a ship of United Stated registry or nationality or operating under the authority of the United States to which the MARPOL Protocol applies to verify

whether the ship has discharged a harmful substance or disposed of garbage in violation of that Protocol or this Act.

(2) If an inspection under this subsection indicates that a violation of the MARPOL Protocol *or of this Act* has occurred the Secretary may undertake enforcement action under section 9 of this Act.

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SECTION 1034 OF TITLE 10, UNITED STATES CODE

§ 1034. Communicating with a Member of Congress or Inspector General; prohibition of retaliatory personnel actions

(a) * * *

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(c) INSPECTOR GENERAL INVESTIGATION OR CERTAIN ALLEGATIONS.—(1) If a member of the armed forces submits to the Inspector General of the Department of Defense (or the Inspector General of the Department of Transportation, in the case of a member of the Coast Guard *when the Coast Guard is not operating as a service in the Navy*) an allegation that a personnel action prohibited by subsection (b) has been taken (or threatened) against the member with respect to a communication described in paragraph (2), the Inspector General shall expeditiously investigate the allegation.

* * * * * * *

(5) Not later than 30 days after completion of an investigation under this subsection, the Inspector General shall submit a report on the results of the investigation to the Secretary of Defense *(or to the Secretary of Transportation in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the navy and to that member)* and the member of the armed forces concerned. In the copy of the report submitted to the member, the Inspector General may exclude any information that would not otherwise be available to the member under section 552 of title 5.

(6) If, in the course of an investigation of an allegation under this section, the Inspector General determines that it is not possible to submit the report required by paragraph (5) within 90 days after the date of receipt of the allegation being investigated, the Inspector General shall provide to the Secretary of Defense *(or to the Secretary of Transportation in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy and to that member)* and to the member making the allegation a notice—

(A) of that determination (including the reasons why the report may not be submitted within that time); and

(B) of the time when the report will be submitted.

* * * * * * *

(e) REVIEW BY SECRETARY OF DEFENSE.—Upon the completion of all administrative review under subsection (d), the member or former member of the armed forces *(except for a member or former member of the Coast Guard when the Coast Guard is not operating as a service in the Navy)* who made the allegation referred to in

subsection (c)(1), if not satisfied with the disposition of the matter, may submit the matter to the Secretary of Defense. The Secretary shall make a decision to reverse or uphold the decision of the Secretary of the military department concerned in the matter within 90 days after receipt of such a submittal.

TITLE 14, UNITED STATES CODE

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PART I—REGULAR COAST GUARD

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CHAPTER 3—COMPOSITION AND ORGANIZATION

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§ 52. Vice admirals, continuity of grade

The continuity of an officer's precedence on the active duty promotion list, date of rank, grade, pay, and allowances as a vice admiral shall not be interrupted by the termination of an appointment for the purpose of reappointment to another position as a vice admiral *or admiral.*

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CHAPTER 11—PERSONNEL

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C. PROMOTIONS

§ 271. Promotions; appointments

(a) * * *

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(e) Appointments of regular officers under this section shall be made by the President, by and with the advice and consent of the Senate, *except that appointments under this section in the grade of lieutenant (junior grade) or lieutenant shall be made by the President alone.* Appointments of Reserve officers shall be made as prescribed in section 593 of title 10.

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D. DISCHARGES; RETIREMENTS; REVOCATION OF COMMISSIONS

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§ 289. Captains; continuation on active duty; involuntary retirement

(a) * * *

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(c) Based on the needs of the service the Secretary shall furnish the board with the number of officers that may be recommended for continuation on active duty. This number shall be no less than [75] *50* percent of the number considered. The board shall select from the designated continuation zone, in the number directed by the Secretary, those officers who are, in the opinion of the board, best qualified for continuation on active duty.

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CHAPTER 17—ADMINISTRATION

Sec.
631. Delegation of powers by the Secretary.
* * * * * * *
666. Local hire.
* * * * * * *

§ 664. User fees

(a) * * *

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(c) Before January 1 of each year, the Secretary shall submit a report to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that includes—

(1) a verification of each activity for which a fee or charge is collected *under any law* stating—

(A) the amount collected in the prior fiscal year; and

(B) that the amount spent on that activity in that fiscal year is not less than the amount collected; and

(2) the amount expected to be collected *under any law* in the current fiscal year for each activity for which a fee or charge is expected to be collected.

* * * * * * *

§ 666. Local hire

(a) Notwithstanding any other law, each contract awarded by the Coast Guard for construction or services to be performed in whole or in part in a State that has an unemployment rate in excess of the national average rate of unemployment (as determined by the Secretary of Labor) shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in that State, individuals who are local residents and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills. The Secretary of Transportation may waive the requirements of this subsection in the interest of national security or economic efficiency.

(b) LOCAL RESIDENT DEFINED.—As used in this section, "local resident" means a resident of, or an individual who commutes daily to, a State described in subsection (a).

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PART II—COAST GUARD RESERVE AND AUXILIARY

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CHAPTER 21—COAST GUARD RESERVE

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Subchapter B—Commissioned Officers

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§ 736. Date of rank upon promotion; entitlement to pay

(a) * * *

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(c) For the purposes of subsection (a) of this section, the date of appointment shall be that date when promotion authority is exercised by the Secretary. *However, the Secretary may adjust the date of appointment—*

(1) if a delay in the finding required under section 734(a) of this title is beyond the control of the officer and the officer is otherwise qualified for promotion; or

(2) for any other reason that equity requires.

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§ 741. Retention boards; removal from an active status to provide a flow of promotion

(a) Notwithstanding any other provision of this title, whenever the Secretary determines that it is necessary to reduce the number of Reserve officers in an active status in any grade to provide a steady flow of promotion, or that there is an excessive number of Reserve officers in an active status in any grade, the Secretary may appoint and convene a retention board to consider all of the Reserve officers in that grade in an active status *who have 18 years or more of service for retirement and are* not on active duty and not on an approved list of selectees for promotion to the next higher grade. The retention board shall select and recommend a specified number of the officers under consideration for retention in an active status. This board shall—

(1) to the extent practicable, consist of at least 50 per centum Reserve officers;

(2) consist only of officers who are senior in rank to any officers being considered by that board; and

(3) to the extent practicable, consist of officers who have not served on the last previous retention board which considered officers of the same grade.

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